

HEALTH AND SENIOR SERVICES

SENIOR SERVICES AND HEALTH SYSTEMS BRANCH

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

**OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE FACILITY
LICENSURE**

Proposed Amendments: N.J.A.C. 8:43E-10.2, 8:43F, and 8:82-5.2

Proposed Repeals: N.J.A.C. 8:43F-19

Proposed New Rules: N.J.A.C. 8:43J

**General Licensure Procedures and Standards Applicable to All Licensed
Facilities: Patient or Resident Safety Requirements and Reportable
Events: Scope**

Standards for Licensure of Adult and Pediatric Day Health Services Facilities

Standards for Licensure of Pediatric Medical Day Care Facilities

**Statewide Respite Care Program: Sponsors and Providers: Qualifications
and Requirements for Provider Agencies**

Authorized By: Heather Howard, Commissioner, Department of Health and Senior
Services (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Proposal Number: PRN 2008-353.

Submit written comments by January 2, 2009 to:

Ruth Charbonneau, Director
Office of Legal and Regulatory Affairs
Office of the Commissioner
NJ Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

The Department of Health and Senior Services (Department) is proposing new rules for the licensure of pediatric medical day care facilities, currently referred to and licensed as pediatric day health services, at N.J.A.C. 8:43J, Standards for Licensure of Pediatric Medical Day Care Facilities. The proposed new rules at N.J.A.C. 8:43J would replace the existing licensure rules at N.J.A.C. 8:43F, Standards for Licensure of Adult and Pediatric Day Health Services Facilities, with respect to their application to pediatric day health services facilities. The Department is also proposing amendments at existing N.J.A.C. 8:43F and the repeal of N.J.A.C. 8:43F-19 to delete references to, and licensure standards for, pediatric day health services facilities. The provisions of existing N.J.A.C. 8:43F not proposed for amendment or repeal within this notice of proposal would continue to govern licensure of adult day health services facilities.

The proposed new rules would provide the basis for licensure of the 17 pediatric medical day care facilities currently operating in New Jersey, as well as any pediatric medical day care facilities that may apply for licensure in the future.

Existing N.J.A.C. 8:86 provides standards for Medicaid eligibility for adult and pediatric day health services participants and facilities. The Department is proposing amendments at existing N.J.A.C. 8:86 and new rules to be codified at N.J.A.C. 8:87, Pediatric Medical Day Care Services (PMDC). The proposed new rules would articulate Medicaid eligibility standards for PMDC participants and facilities separate from the existing standards for adult day health services facilities at existing N.J.A.C. 8:86. The notice of these proposed amendments and new rules are published elsewhere in this issue of the New Jersey Register. The Summary of that notice of proposal provides a discussion of the rationale for the separation of pediatric and adult medical day care standards for licensure and Medicaid eligibility purposes and also provides a discussion of the development of the standards for pediatric medical day care.

The purpose of pediatric medical day care is to provide an alternative to private duty nursing, prolonged hospitalization, and institutional long-term care for primarily technology-dependent and medically fragile children.

In a 2006 notice of proposal to readopt N.J.A.C. 8:43F, the Department reported that it was conducting a study of pediatric day health services and planned to propose a comprehensive revision of the rules governing pediatric day health services in the future. See 38 N.J.R. 3115(a) (August 7, 2006).

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A Department-designated team (the "PMDC Study Team") visited nine PMDC facilities and reviewed 185 individual records of the children attending those facilities. This notice of proposal reflects the PMDC Study Team's analysis of these facilities and its recommendations for improvement of the licensure standards.

Following is a summary of the proposed amendments, repeals, and new rules.

The Department proposes to amend existing N.J.A.C. 8:43F to delete existing standards applicable to pediatric day health services facilities and proposes to repeal existing N.J.A.C. 8:43F-19 Pediatric Day Health Services Facilities in its entirety, inasmuch as the proposed new rules at N.J.A.C. 8:43J would establish corresponding or new licensure standards for these facilities, as described below.

The Department is also proposing technical amendments throughout existing N.J.A.C. 8:43F to reflect a renaming of a Department program responsible for administering aspects of the chapter, due to a Department reorganization. Specifically, the Department proposes to delete references throughout the chapter to the "Long-Term Care Licensing Program" and replace them with references to the "Office of Certificate of Need and Healthcare Facility Licensure." The Department proposes amendments at N.J.A.C. 8:43F-4.2 to reflect the administrative renaming and relocation of the office of the Ombudsperson for the Institutionalized Elderly to the New Jersey Department of the Public Advocate, and the Division of Youth and Family Services to the New Jersey Department of Children and Families.

The Department proposes to amend N.J.A.C. 8:43F-1.2 by deleting the definition of "adult day health services participant" and adding a definition for "participant." The Department proposes to define "participant" as a person who participates in a program of services from a licensed adult day health services facility. As the rules governing pediatric day health services facilities are being removed from this chapter, all participants in the facility will be adults and there is no longer a need to make the distinction.

The Department proposes to amend existing N.J.A.C. 8:43F to delete references to "elderly or disabled adults" and replace them with references to the more generic term "participants."

The Department proposes amend N.J.A.C. 8:43F-3.3(d)8 to delete reference to "child abuse" inasmuch as the section addresses requirements applicable to abuse generally. The Department proposes to amend N.J.A.C. 8:43F-3.3(d)8 to specify the applicable jurisdictions of various agencies to whom

reports of abuse or exploitation of participants are to be made, as reflected in facilities' policies and procedures. The reporting of occurrences of abuse or exploitation of participants aged 60 or older that occurs during participation in adult day health services is to be reported to the Ombudsperson for the Institutionalized Elderly of the Department of the Public Advocate, and of those under age 60 to the Department. Suspected abuse of persons aged 18 or older that occurs in the community is to be reported to Adult Protective Services, and of those under age 18 to the Division of Youth and Family Services in the Department of Children and Families (persons aged 16 and up are eligible to participate in adult day health services; see N.J.A.C. 8:43F-5.1(e)).

The Department proposes to amend N.J.A.C. 8:43F-3.6(a)6 to delete reference to "control" of smoking in a facility and to replace it with reference to "prohibition" of smoking, and to delete the procedures for that "control" at N.J.A.C. 8:43F-3.6(a)6i through iv. The New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq., particularly at N.J.S.A. 26:3D-58, prohibits smoking in "indoor public places" and "workplaces," and requires the owner or operator of a location subject to the Act to require compliance therewith. An adult day health services facility is both an "indoor public place" and a "workplace," as N.J.S.A. 26:3D-57 defines those terms ("Indoor public place" means a . . . health care facility licensed pursuant to [N.J.S.A.] 26:2H-1 et seq."; "Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor"). Thus, it would be inappropriate for the rule to continue to suggest that smoking, albeit "controlled" smoking, is appropriate in an adult day health services facility.

The Department proposes to amend N.J.A.C. 8:43F-4.1 to delete N.J.A.C. 8:43F-4.1(c) and (d) inasmuch as they are redundant of N.J.A.C. 8:43F-3.3, as proposed for amendment, described above.

The Department proposes to amend recodified N.J.A.C. 8:43F-16.2(h) to delete the requirement that a facility annually report positive results on tuberculin tests of employees to the Department. The proposed amendment would require facilities to retain copies of an employee's tuberculin test result in the employee's personnel file. This amendment is proposed because of changes made by the Department's Tuberculosis Program.

The Department proposes to amend N.J.A.C. 8:43F-16.2(j), to be recodified as new (i), to correct an inaccurate cross-reference and to correct the citation format of another cross-reference.

Following is a summary of the proposed new rules at N.J.A.C. 8:43J.

Proposed Subchapter 1 would contain General Provisions.

Proposed new N.J.A.C. 8:43J-1.1 would provide the scope and purpose of the chapter, that is, to constitute the basis for the licensure and operation of pediatric medical day care facilities.

Proposed new N.J.A.C. 8:43J-1.2 would contain definitions of the following terms used throughout the chapter: "advanced practice nurse," "American Academy of Pediatrics," "American College of Emergency Physicians," "American Dietetic Association," "American Heart Association," "child," "child life specialist," "class III medical device," "consultant pharmacist," "daily census," "Department," "device," "direct care staff," "'drug' or 'medication,'" "Emergency Nurses Association," "facility," "family," "full-time equivalent," "initial plan of care," "interdisciplinary plan of care," "interdisciplinary team," "licensed nurse," "licensed nursing staff," "'licensed practical nurse' or 'LPN,'" "Medicaid," "Medicaid beneficiary," "medical director," "medical record," "medically complex child," "medication administration," "National Academy of Sciences," "'neonatal intensive care unit' or 'NICU,'" "occupational therapist," "Office of Certificate of Need and Healthcare Facility Licensure," "ongoing," "parent," "pediatric intensive care unit," "'pediatric medical day care' or 'PMDC,'" "'pediatric medical day care facility' or 'PMDC facility,'" "pharmacist," "physical therapist," "physician," "prescriber," "primary health care provider," "progress note," "registered dietitian," "'registered professional nurse' or 'R.N.," "rehabilitation services," "Schedule II controlled substance," "signature," "skilled nursing intervention," "slots," "social worker," "speech-language pathologist," "technology-dependent child," "toddler," "transportation services" and "unlicensed assistive personnel."

Proposed new Subchapter 2, Licensure Procedures, would establish procedures and requirements for licensure. This subchapter would not establish any new requirements on licensees that are not in existing N.J.A.C. 8:43F. The proposed new subchapter would establish a reorganized articulation of the licensing standards at existing N.J.A.C. 8:43F in an easier-to-use format.

Proposed new N.J.A.C. 8:43J-2.1 would provide ownership requirements.

Proposed new N.J.A.C. 8:43J-2.2 would provide licensure application procedures and requirements. The proposed new rule would identify the documents and information that must be submitted by an applicant for licensure and addresses the required review of the applicant's track record.

Proposed new N.J.A.C. 8:43J-2.3 would provide conditions that must be met by an applicant before the Department would license a facility to operate.

Proposed new N.J.A.C. 8:43J-2.4 would list the licensure fees the Department would charge.

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Proposed new N.J.A.C. 8:43J-2.5 would require criminal background investigations for all employees and owners or other individuals who may have contact with children in pediatric medical day care facilities.

Proposed new N.J.A.C. 8:43J-2.6 would establish physical plant requirements for facilities.

Proposed new N.J.A.C. 8:43J-2.7 would provide the survey requirements for facilities.

Proposed new N.J.A.C. 8:43J-2.8 would provide the requirements for licensure renewal.

Proposed new N.J.A.C. 8:43J-2.9 would provide that a facility must give at least 30 days notice to each child's parent and primary health care practitioner, and any guarantors of payment, prior to the facility's surrender of a license.

Proposed new N.J.A.C. 8:43J-2.10 would address actions that may be taken by the Department against a licensee for violations of licensing standards.

Proposed new N.J.A.C. 8:43J-2.11 would address hearings.

Proposed new N.J.A.C. 8:43J-2.12 would provide the requirements for a transfer of ownership.

Proposed new N.J.A.C. 8:43J-2.13 would establish the procedures for the submission of a waiver request by the licensee and the conditions under which the Department would consider an application for waiver of a licensure standard.

Proposed new N.J.A.C. 8:43J-2.14 would require a licensee to report any changes that occur in the information provided on a license or renewal application to the Department within 10 calendar days of the change.

Proposed new Subchapter 3, Administration, would establish the licensee responsibilities and standards with respect to facility administration.

Proposed new N.J.A.C. 8:43J-3.1 would require each license holder to appoint an administrator who is a full-time employee of the facility, as well as a designated alternate, one of whom is to be available on premises at all times services are being provided.

Proposed new N.J.A.C. 8:43J-3.2 would establish the minimum educational and experiential qualifications of a facility administrator.

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Proposed new N.J.A.C. 8:43J-3.3 would establish facility administrator responsibilities.

Proposed new N.J.A.C. 8:43J-3.4 would require facilities to comply with applicable laws and to develop a policy and procedure manual and would identify subject matter areas that facilities must address in their policies and procedures.

Proposed new N.J.A.C. 8:43J-3.5 would require facilities to establish written childcare policies and procedures, and would identify subject matter areas that facilities must address in their childcare policies and procedures.

Proposed new N.J.A.C. 8:43J-3.6 would establish incidents and/or circumstances that require mandatory reporting by the licensee to the Department and/or other designated agencies, and would require facilities to post notice of certain specified information.

Proposed new N.J.A.C. 8:43J-3.7 would establish standards for facilities' financial arrangements with parents of children participating in PMDC.

Proposed new N.J.A.C. 8:43J-3.8 would require facilities to provide the reason for a denial of admission in writing to the applicant within 15 days of the denial determination.

Proposed new N.J.A.C. 8:43J-3.9 would provide the requirements for an involuntary discharge, which include a notice requirement and the right to appeal.

Proposed new N.J.A.C. 8:43J-3.10 would require a facility to demonstrate that they have the ability to provide interpretation services to a child and his or her parent, if necessary.

Proposed new N.J.A.C. 8:43J-3.11 would provide for the notification of a child's parent in the event of certain occurrences.

Proposed new N.J.A.C. 8:43J-3.12 would establish a general records policy and would identify some of the records that facilities are to maintain.

Proposed new N.J.A.C. 8:43J-3.13 would establish the required documents that facilities are to make available to staff on premises.

Proposed new Subchapter 4 would address Child Rights.

Proposed new N.J.A.C. 8:43J-4.1 would require facilities to establish and implement policies and procedures regarding the rights of children.

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Proposed new N.J.A.C. 8:43J-4.2 would articulate the rights of children that the facility is to ensure.

Proposed new Subchapter 5 would address Child Assessment and Interdisciplinary Plan of Care.

Proposed new N.J.A.C. 8:43J-5.1 would establish the required content of a child's pre-admission assessment.

Proposed new N.J.A.C. 8:43J-5.2 would establish the required admission procedures that facilities are to follow.

Proposed new N.J.A.C. 8:43J-5.3 would establish the process and required content of the initial assessment and the initial plan of care.

Proposed new N.J.A.C. 8:43J-5.4 would establish the requirements for the development and implementation of the interdisciplinary plan of care and also would address discharge planning.

Proposed new Subchapter 6 would address General Services.

Proposed new N.J.A.C. 8:43J-6.1 would establish the general services that a facility must provide.

Proposed new N.J.A.C. 8:43J-6.2 would provide staffing requirements, which are, in part, based on attendance at the facility, as well as other requirements for direct care staff member, which include CPR training and experience with children with special needs.

Proposed new N.J.A.C. 8:43J-6.3 would establish the requirements for personnel, including criminal background investigations, written job descriptions, appropriate licensure or certification for certain staff, written staffing schedules, a staff orientation and education plan, and the maintenance of health records for employees.

Proposed new Subchapter 7 would address Nursing Services.

Proposed new N.J.A.C. 8:43J-7.1 would require the designation of a nursing director.

Proposed new N.J.A.C. 8:43J-7.2 would establish minimum qualifications of nursing directors.

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Proposed new N.J.A.C. 8:43J-7.3 would establish nursing director responsibilities.

Proposed new N.J.A.C. 8:43J-7.4 would establish minimum qualifications of nursing staff.

Proposed new N.J.A.C. 8:43J-7.5 would establish required nursing services.

Proposed new N.J.A.C. 8:43J-7.6 would establish the responsibilities of licensed nursing personnel.

Proposed new Subchapter 8 would address Medical Services.

Proposed new N.J.A.C. 8:43J-8.1 would establish required medical services.

Proposed new N.J.A.C. 8:43J-8.2 would provide for the designation and minimum qualifications of medical directors.

Proposed new N.J.A.C. 8:43J-8.3 would establish medical director responsibilities.

Proposed new N.J.A.C. 8:43J-8.4 would establish the role of a child's primary health care provider.

Proposed new N.J.A.C. 8:43J-8.5 would establish requirements for medical equipment that facilities are to have on-site.

Proposed new N.J.A.C. 8:43J-8.6 would establish requirements for facilities to have agreements in place with emergency medical services providers.

Proposed new N.J.A.C. 8:43J-8.7 would provide standards to which facilities are to adhere in addressing medical emergencies. The proposed new rule would require facilities to have an emergency plan containing the content of the Emergency Information Form for Children with Special Needs developed by the American Academy of Pediatrics. The Department is not requiring facilities to use the form, though a facility has the option to do so, as facilities already have most of the information requested on the Emergency Information Form for Children with Special Needs and the requirement is to develop the required information into an emergency plan. The Emergency Information Form for Children with Special Needs requires contact information, including emergency contact information for the child's parent, contact information for the child's physician(s), names of anticipated emergency departments and tertiary care centers. The form further

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requires diagnoses and results of physical examinations, allergies, immunizations and common presenting problems with specific suggested managements. Additional information on the form is available in "Childhood Emergencies in the Office, Hospital, and Community" (2000), also known as "The Blue Book," published by the American Academy of Pediatrics.

Proposed new Subchapter 9 would address Pharmaceutical Services. Proposed new N.J.A.C. 8:43J-9.1 would establish requirements for the provision of pharmaceutical services and would require facilities to designate consultant pharmacists.

Proposed new N.J.A.C. 8:43J-9.2 would require facilities to establish medication administration policies and procedures.

Proposed new N.J.A.C. 8:43J-9.3 would establish pharmacy reporting requirements and procedures.

Proposed new N.J.A.C. 8:43J-9.4 would address pharmacy control policies and procedures.

Proposed new Subchapter 10 would address Dietary Services.

Proposed new N.J.A.C. 8:43J-10.1 would provide the general requirements for dietary services. The proposed rule would also incorporate by reference the Recommended Dietary Allowances, 10th Edition (1989), Food and Nutrition Board of the National Academy of Sciences, Commission on Life Sciences, National Research Council, which provides nutrient guidelines for the facility to follow when preparing a child's menu.

Proposed new N.J.A.C. 8:43J-10.2 would establish minimum qualifications of dietitians.

Proposed new N.J.A.C. 8:43J-10.3 would provide the qualifications of the food service supervisor.

Proposed new N.J.A.C. 8:43J-10.4 would establish the administrator's responsibilities for dietary services.

Proposed new Subchapter 11 would address Developmental and Rehabilitation Services.

Proposed new N.J.A.C. 8:43J-11.1 would establish requirements for developmental services.

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Proposed new N.J.A.C. 8:43J-11.2 would establish requirements for rehabilitation services.

Proposed new N.J.A.C. 8:43J-11.3 would establish requirements for rehabilitation supplies and equipment.

Proposed new Subchapter 12 would address Social Work Services.

Proposed new N.J.A.C. 8:43J-12.1 would establish minimum qualifications of social workers.

Proposed new N.J.A.C. 8:43J-12.2 would provide minimum requirements for social work services.

Proposed new Subchapter 13 would address Physical Plant Requirements.

Proposed new N.J.A.C. 8:43J-13.1 would establish physical plant requirements.

Proposed new N.J.A.C. 8:43J-13.2 would establish requirements for functional service areas.

Proposed new N.J.A.C. 8:43J-13.3 would establish requirements for toilet facilities.

Proposed new N.J.A.C. 8:43J-13.4 would establish requirements for administration areas.

Proposed new N.J.A.C. 8:43J-13.5 would require employees' lounges in facilities.

Proposed new N.J.A.C. 8:43J-13.6 would provide standards for housekeeping services areas.

Proposed new N.J.A.C. 8:43J-13.7 would provide standards for social work services areas.

Proposed new N.J.A.C. 8:43J-13.8 would provide standards for child care areas.

Proposed new N.J.A.C. 8:43J-13.9 would establish requirements for cribs and mats.

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Proposed new N.J.A.C. 8:43J-13.10 would provide standards for outdoor play areas.

Proposed new N.J.A.C. 8:43J-13.11 would provide standards for nursing services, pharmaceutical services and examination rooms.

Proposed new N.J.A.C. 8:43J-13.12 would provide standards for dietary services areas.

Proposed new N.J.A.C. 8:43J-13.13 would provide standards for physical therapy service areas.

Proposed new N.J.A.C. 8:43J-13.14 would provide standards for speech-language pathology services areas.

Proposed new N.J.A.C. 8:43J-13.15 would provide standards for laundry services areas.

Proposed new N.J.A.C. 8:43J-13.16 would require emergency plans and procedures.

Proposed new Subchapter 14 would address medical records.

Proposed new N.J.A.C. 8:43J-14.1 would provide requirements for the maintenance of medical records.

Proposed new N.J.A.C. 8:43J-14.2 would require that facilities assign responsibility for medical records services to full-time employees.

Proposed new N.J.A.C. 8:43J-14.3 would establish minimum content requirements for medical records.

Proposed new N.J.A.C. 8:43J-14.4 would establish requirements for medical records policies and procedures.

Proposed new Subchapter 15 would address infection control, sanitation and housekeeping.

Proposed new N.J.A.C. 8:43J-15.1 would establish administrators' responsibilities for infection control.

Proposed new N.J.A.C. 8:43J-15.2 would establish child immunization requirements.

Proposed new N.J.A.C. 8:43J-15.3 provides minimum standards for the development of infection control policies and procedures, which must be consistent with specific Centers for Disease Control publications. The proposed rule would also incorporate by reference the following publications:

1. Guidelines for Hand Hygiene in Health Care Settings, MMWR/51 (RR-16), October 25, 2002, which provides healthcare workers with a review of the data regarding handwashing and hand antisepsis in healthcare settings and gives specific recommendations to promote improved hand hygiene practices and reduce the transmission of pathogenic microorganisms to patients and personnel in healthcare settings;
2. Bloodborne Pathogens, Occupational Safety and Health Standards, 29 CFR 1910.1030, which provides new criteria for preventing the transmission of bloodborne pathogens; and
3. Guideline for Environmental Infection Control in Health-Care Facilities: Recommendation of the CDC Healthcare Infection Control Practices Advisory Committee (HICPAC) 2003, which provides specific recommendations to healthcare facilities for the prevention and control of infectious diseases.

Proposed new N.J.A.C. 8:43J-15.4 would provide standards for employee Mantoux testing.

Proposed new N.J.A.C. 8:43J-15.5 would provide standards for employee health histories and examinations.

Proposed new N.J.A.C. 8:43J-15.6 would provide standards for regulated medical waste.

Proposed new N.J.A.C. 8:43J-15.7 would require facilities to address housekeeping, sanitation and safety standards.

Proposed new N.J.A.C. 8:43J-15.8 would establish housekeeping standards.

Proposed new N.J.A.C. 8:43J-15.9 would provide facility environmental standards.

Proposed new Subchapter 16 would address transportation services.

Proposed new N.J.A.C. 8:43J-16.1 would provide standards for transportation services.

Proposed new N.J.A.C. 8:43J-16.2 would address transportation staffing levels.

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Proposed new N.J.A.C. 8:43J-16.3 would require facilities to address security during transportation.

Proposed new Subchapter 17 would address facility quality improvement programs.

Proposed new N.J.A.C. 8:43J-17.1 would require facilities to implement quality improvement programs.

Proposed new N.J.A.C. 8:43J-17.2 would provide standards for the use of restraints in facilities.

Proposed new N.J.A.C. 8:43J-17.3 would provide standards for staff development.

The Department proposes to amend N.J.A.C. 8:43E-10.2(a)8 to reflect the renaming of pediatric day health services as pediatric medical day care and to correct the cross-reference to reflect the proposed new rules governing PMDC at N.J.A.C. 8:43J.

The Department proposes to amend N.J.A.C. 8:82-5.2 to reflect that licensure standards and procedures for adult day health services facilities are contained in the entirety of N.J.A.C. 8:43F, and not only in Subchapter 2 of that chapter.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeals, and new rules would ensure the health, safety and welfare of the children who are served by PMDC facilities.

Proposed new N.J.A.C. 8:43J would establish minimum standards for the licensure of PMDC facilities. The proposed new rules would ensure the quality of care provided to children who attend PMDC. PMDC facilities allow children to receive medical, nursing, and other services while remaining in the community and continuing to live with their parents.

Individuals to whom the proposed new rules would apply include owners and operators of PMDC facilities, children who attend PMDC facility programs and their parents, and staff who work at PMDC facilities. PMDC provides children who are technology-dependent and/or have medically complex conditions with access

to medically necessary health care while allowing them to remain in their own homes, in familiar surroundings with their parents, for as long as possible. Pediatric medical day care also benefits parents of these children, by providing them with a respite from serving as primary caregivers, and allowing them the freedom to work and earn a living while their loved ones attending PMDC facility programs.

N.J.A.C. 8:43F would provide a mechanism to ensure that quality services are provided in PMDC facilities. The proposed new rules at N.J.A.C. 8:43J would continue to ensure that PMDC facilities provide children necessary services in appropriate environments.

Economic Impact

The Department expects that the proposed amendments, repeals, and new rules would have no economic impact on the public because they do not impose any additional costs on the State budget. The proposed amendments, repeals, and new rules would not impose any economic burden on PMDC participants or on the Department. The proposed new rules at N.J.A.C. 8:43J would have an economic benefit in facilitating the provision of medically necessary health care services in the least restrictive environment and in a cost-efficient use of health care resources.

The proposed amendments, repeals, and new rules would have an economic impact on owners and operators of pediatric medical day care facilities. There are new economic burdens beyond the existing ones currently imposed upon the regulated industry in N.J.A.C. 8:43F. While the Department recognizes that the proposed amendments, repeals, and new rules would have an economic impact on pediatric medical day care facilities, the Department, in consultation with the Pediatric Study Team, has limited the changes to those necessary to protect the health and welfare of children who receive services in these facilities.

The licensing fees at proposed new N.J.A.C. 8:43J-2 would result in costs to licensed facilities.

Assistance in preparation of waivers and documentation of reasons for requests of waivers may result in costs to facilities. In addition, penalties that may result from the failure of licensees meeting the standard of care or safety requirements that are discussed in the Summary above may result in costs to a facility that violates the requirements of this chapter. The appeal of such a penalty may result in the licensee entailing costs for professional services, such as those of an attorney. However, the proposed new rules do not require facilities to retain these professionals.

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

Licensees would incur the costs of professionals who provide medical services, nursing services, pharmaceutical services, dietary, social services, and activities. As these costs would vary widely based on the census of a facility, the Department is unable to estimate the economic impact of these services as a whole. The staffing standards are discussed in the Summary above.

The various physical plant and functional requirements contained in at proposed new N.J.A.C. 8:43J-13 would not impose any additional cost on licensed facilities as these facilities already have existing physical plants. New facilities would have to comply with these standards and might incur costs associated with the functional and square footage requirements.

Federal Standards Statement

The proposed new rules, amendments and repeals are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that the proposed amendments, new rules or repeals would result in an increase or decrease in the number of jobs available in the State.

Agriculture Industry Impact

The proposed amendments, repeals, and new rules would not have an impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments, repeals, and new rules would impose reporting, recordkeeping, and compliance requirements on PMDC facilities. There are currently 17 PMDC facilities licensed as pediatric day health services facilities in the State, all of which have fewer than 100 employees, full-time, and are therefore "small businesses" as the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., defines that term.

The reporting, recordkeeping, and compliance requirements the proposed amendments, repeals, and new rules would impose on licensed PMDC facilities that are small businesses are the same as those imposed on licensed PMDC facilities generally, and are described in the Summary above.

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

The proposed amendments, repeals, and new rules would require all licensed PMDC facilities that are small businesses to retain the professional services of dietitians, social workers, child life specialists, nurses, pharmacists, physicians, and administrators. The extent to which the services of some of these professionals would be needed would depend on the requirements of participants' individualized care plans. The costs of the services of these professionals would vary among facilities depending on such factors as facility size and participant needs.

The Department has determined that the proposed amendments, repeals, and new rules impose the minimum standards necessary to protect the health and safety of children at pediatric medical day care facilities. Moreover, the existing regulated community of PMDC service providers consists entirely of entities that are small businesses and the Department expects that new providers in this industry would likewise be small businesses. Therefore, the Department proposes no lesser or differing requirements or standards based on business size.

Smart Growth Impact

The Department does not anticipate that the proposed amendments, repeals or new rules would have an impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments and new rules would not apply to housing units, and would have no impact on the average cost of housing. The proposed amendments, repeals, and new rules would establish licensure standards for pediatric medical day care services. Therefore, a Housing Affordability Impact analysis is not required.

Smart Growth Development Impact

The proposed amendments and new rules would have no impact on the number of housing units or the availability of affordable housing in the State, and would have no affect on new construction within Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan. The proposed amendments, repeals and new rules would establish licensure standards for pediatric medical day care services. Therefore, a Smart Growth Development Impact analysis is not required.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:43F-19.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 43E
GENERAL LICENSURE PROCEDURES AND STANDARDS APPLICABLE TO
ALL LICENSED FACILITIES

SUBCHAPTER 10. PATIENT OR RESIDENT SAFETY REQUIREMENTS AND
REPORTABLE EVENTS

8:43E-10.2 Scope

(a) This subchapter shall apply to all health care facilities licensed pursuant to N.J.S.A. 26:2H-1 et seq. and to State psychiatric hospitals operated by the Department of Human Services in accordance with the following:

1.-7. (No change.)

8. For adult [and pediatric] day health services facilities licensed pursuant to N.J.A.C. 8:43F **and pediatric medical day care facilities licensed pursuant to N.J.A.C. 8:43J**, effective March 3, 2009;

9.-11. (No change.)

CHAPTER 43F
STANDARDS FOR LICENSURE OF ADULT [AND PEDIATRIC] DAY HEALTH
SERVICES FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

8:43F-1.1 Scope and purpose

The rules in this chapter pertain to all facilities that provide adult [or pediatric] day health services, regardless of the source of payment. These rules constitute the basis for the licensure of adult [and pediatric] day health services facilities by the New Jersey Department of Health and Senior Services. The Medicaid rules for adult [and pediatric] day health services are contained in N.J.A.C. 8:86. Adult [and pediatric] day health services facilities provide specialized, integrated care to participants in order to assist them in reaching the functional levels of which they are capable, as well as to protect their health and safety. The purpose of this chapter is to establish minimum rules to which an adult [or pediatric] day health service facility must adhere to be licensed to operate in New Jersey. An adult day [or pediatric day] health services facility that is a Medicaid provider shall also comply with the [regulations] **rules** at N.J.A.C. 8:86.

8:43F-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

["Administration-adult day health services facility" means an identifiable administrative unit within the adult day health services headed by a director/administrator, responsible for the overall conduct of all adult day health service program activities.]

"Activities of daily living (ADL)" means the functions or tasks for self-care, which are performed either independently or with supervision or assistance. Activities of daily living include dressing, bathing, toilet use, transfer, locomotion, bed mobility and eating. [In pediatric day health care facilities, ADL may include developmental stimulation, diaper changing and toilet training.]

"Acuity" means the severity of the medical or healthcare needs of a participant.

"Administration-adult day health services facility" means an identifiable administrative unit within the adult day health services headed by a director/administrator, responsible for the overall conduct of all adult day health service program activities.

. . .

["Adult day health services participant" means a person who participates in a program of services from a licensed adult day health services facility.]

. . .

"Division" means the Division of [Long Term Care Systems] **Health Facilities Evaluation and Licensing** within the New Jersey Department of Health and Senior Services.

. . .

"Medical consultant" means a facility's designated physician, who is licensed to practice medicine in the State of New Jersey, and who is responsible for assisting in and reviewing the provision of medical services to the participants of an adult [or a pediatric] day health services facility, in accordance with N.J.A.C. 8:43F-8. [In a pediatric day health services facility, the medical consultant shall also be certified by the American Board of Pediatrics.]

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

. . .

"Participant" means a person who participates in a program of services from a licensed adult day health services facility.

. . .

["Pediatric day health services facility" means a facility which provides additional services in order to provide for the needs of technologically dependent or medically unstable children and conforms to the rules of this chapter and N.J.A.C. 10:122, the Manual of Requirements for Child Care Centers.

"Pediatric day health services participant" means a child who is six years of age or younger, who is technology dependent and/or medically unstable as defined in N.J.A.C. 8:86-1.5(g), and who requires continuous nursing services available in a pediatric day health services facility.]

. . .

"Prior authorization" means the approval process of eligible Medicaid participants by the Department prior to the provision of adult [or pediatric] day health services in accordance with N.J.A.C. 8:86-1.5 and [N.J.A.C.] 8:43F-2.8.

. . .

SUBCHAPTER 2. LICENSURE PROCEDURES

8:43F-2.1 Licensure application procedures and requirements

(a) A person, organization, or corporation desiring to operate an adult [or pediatric] day health services facility, or to expand or relocate an existing facility, shall submit an application for a license on forms prescribed by the Department. Such forms may be obtained from:

Director
Office of Certificate of Need and Healthcare Facility Licensure
Division of Health Facilities Evaluation and Licensing
New Jersey Department of Health and Senior Services
PO Box 358
Trenton, NJ 08625-0358

1. (No change.)

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

2. The Department shall charge a nonrefundable fee of \$ 1,500 plus \$ 10.00 per slot for the filing of an application to add services or program slots to an existing adult [or pediatric] day health services facility.

3. The Department shall charge a nonrefundable fee of \$ 375.00 for the filing of an application to reduce services at an existing adult [or pediatric] day health services facility.

4. The Department shall charge a nonrefundable fee of \$ 375.00 for the filing of an application for the relocation of an adult [or pediatric] day health services facility.

5. The Department shall charge a nonrefundable fee of \$ 1,500 for the filing of an application for the transfer of ownership of an adult [or pediatric] day health services facility.

6. Each adult [and pediatric] day services facility shall be assessed a biennial inspection fee of \$ 450.00. This fee shall be assessed in the year the facility will be inspected along with the annual licensure fee for that year. The fee shall be added to the initial licensure fee for new facilities. Failure to pay the inspection fee shall result in non renewal of the license for existing facilities and the refusal to issue an initial license for new facilities. This fee shall be imposed only every other year even if inspections occur more frequently and only for the inspection required to either issue an initial license or to renew an existing license.

7. Approval of a project proposal shall be contingent upon a review of the applicant's track record, in accordance with N.J.A.C. 8:43E-5.1(b), and compliance with this chapter. All applicants shall demonstrate that they have the capacity to operate an adult [or pediatric] day health services facility in accordance with the rules in this chapter. An application for a license or change in service shall be denied if that applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care are fit and adequate and that the health care facility will be operated in accordance with the standards required by these rules.

[8. The Department shall not issue or continue licensure for the operation of a pediatric day health services facility unless, in accordance with N.J.S.A. 30:5B-6.10 et seq., any current or prospective staff member, administrator, or individual seeking employment at or ownership of a pediatric day health services facility, including volunteer staff, shall have obtained clearance from the Department's Criminal Background Investigation Unit, prior to owning, operating, administering, volunteering or working for a pediatric day health services facility.

i. In accordance with the provisions of N.J.S.A. 30:5B-6.14, no person shall be issued clearance to own, operate, administer, volunteer or work for a pediatric day health services facility who has been convicted of any of the following crimes and offenses:

(1) A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4;

(2) Child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;

(3) Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:6-3;

(4) Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;

(5) Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 2C:14-4, inclusive;

(6) Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter, pursuant to N.J.S.A. 2C:11-4;

(7) Stalking, pursuant to N.J.S.A. 2C:12-10;

(8) Kidnapping and related offenses, including criminal restraint, false imprisonment, interference with custody, criminal coercion or enticing a child into a motor vehicle, structure or isolated area, in violation of any crime enumerated in Chapter 13 of Title 2C of the Revised Statutes of New Jersey (N.J.S.A. 2C:13-1 et seq.);

(9) Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree or higher, pursuant to N.J.S.A. 2C:17-2;

(10) Terroristic threats, pursuant to N.J.S.A. 2C:12-3; and

(11) An attempt or conspiracy to commit any of the crimes or offenses listed in (a)8i(1) through (10) above.

ii. For convictions of crimes and offenses other than those listed in (a)8i(1) through (11) above, an applicant to own, operate, administer, work or volunteer to work for a pediatric day health services facility shall be eligible for employment if the Department determines that the applicant has demonstrated clear and convincing evidence of the applicant's rehabilitation. In determining whether an applicant has demonstrated rehabilitation, the Department shall consider:

(1) The nature and responsibility of the position that the applicant would hold or currently holds at the facility, as the case may be;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the person when the offense was committed;

(6) Whether the offense was an isolated or repeat incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

iii. For convictions occurring in any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (a)8i(1) through (11), above.

iv. In accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, any individual disqualified from owning, operating, administering, volunteering or working for a pediatric day health services facility pursuant to (a)8i above shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

v. An individual disqualified from owning, operating, administering, volunteering or working for a pediatric day health services facility pursuant to (a)8ii above shall be given the opportunity to challenge the accuracy of the disqualifying criminal history record or the denial of a determination of rehabilitation pursuant to (a)8ii(1) through (8) above prior to being permanently disqualified from participation.]

[9.] **8.** (No change in text.)

8:43F-2.3 Newly constructed or expanded facilities

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

(a) The licensure application for a newly constructed, renovated or expanded facility shall include written approval of final construction of the physical plant by:

Health Care Plan Review Unit
Division of Codes and Standards
New Jersey Department of Community Affairs
PO Box 815
Trenton, NJ 08625-0815
(609)[-]633-8151

1. Any existing or proposed adult [or pediatric] day health services facility with a construction program shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box 815, Trenton, NJ 08625-0815, for review and approval prior to the initiation of construction.

2. (No change.)

8:43F-2.4 Preliminary conference

When a newly constructed facility is approximately 80 percent complete or when an applicant's estimated date of opening is within 30 days, the applicant shall schedule a preliminary conference with the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure** for review of the conditions for licensure and operation.

8:43F-2.5 Surveys

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Department shall be conducted at the Department's discretion to determine if the facility adheres to the rules in this chapter.

1. (No change.)

2. The facility shall notify the [Division of Long Term Care Systems] **Office of Certificate of Need and Healthcare Facility Licensure** of the Department when the deficiencies, if any, have been corrected, and the Assessment and Survey Program shall schedule one or more resurveys of the facility prior to occupancy.

3. (No change.)

(b) No facility shall admit participants to the facility until the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure** of the Department issues a license to operate the facility.

(c)-(e) (No change.)

8:43F-2.6 License

(a) The Department shall issue a license to the operator of the facility when all of the following conditions are met:

1. A project proposal has been submitted by the applicant and approved by the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure**, in writing;

i. The project proposal shall specify if there will be more than one shift of operation and shall provide the hours of operation for each shift. Any change in the hours of operation shall be reported in writing to the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure**; and

ii. (No change.)

2. (No change.)

3. A preliminary conference for review of conditions for licensure and operation has taken place between representatives of the facility and staff of the Division of [Long Term Care Systems] **Health Facilities Evaluation and Licensing**;

4.-5. (No change.)

[6. In accordance with N.J.A.C. 8:43F-2.1(a)8, the owners, administrators, volunteers and employees of pediatric day health services facilities shall have clearance from the Criminal Background Investigation Unit prior to operating a pediatric day health services facility;]

[7.] **6.** The applicant has submitted the following additional documents to the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure**:

i.-iii. (No change.)

[8.] 7. A survey by Department staff indicates that the facility meets the standards set forth in the chapter and N.J.S.A. 26:2H-1 et seq.

(b)-(g) (No change.)

8:43F-2.7 Surrender of license

The facility shall notify each participant, the participant's physician, advanced practice nurse, or physician assistant, and any guarantors of payment at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the [Long Term Care Licensing and Certification Program] **Office of Certificate of Need and Healthcare Facility Licensure** within seven working days after the voluntary surrender, revocation, non-renewal, or suspension of license.

8:43F-2.12 Transfer of ownership

(a) Any proposed change in ownership shall be reported to the Director of the [Long Term Care Licensing and Certification Program] **Office of Certificate of Need and Healthcare Facility Licensure** of the Department in writing at least 30 days prior to the change.

(b) Prior to transferring ownership of a facility, the prospective new owner shall submit an application to the [Long Term Care Licensing and Certification Program] **Office of Certificate of Need and Healthcare Facility Licensure**. The application shall include the following information:

1.-4. (No change.)

(c) (No change.)

(d) When a transfer of ownership application has been reviewed and deemed acceptable, an approval letter from the [Long Term Care Licensing Program] **Office of Certificate of Need and Healthcare Facility Licensure** shall be sent to the applicant along with licensure application forms.

(e) After the transaction has been completed, the applicant shall submit the following documents to the [Long Term Care Licensing and Certification Program] **Office of Certificate of Need and Healthcare Facility Licensure**:

1.-3. (No change.)

(f)-(g) (No change.)

SUBCHAPTER 3. ADMINISTRATION

8:43F-3.1 Appointment and responsibilities of the administrator

(a) (No change.)

(b) The administrator shall be responsible for, but not limited to, the following:

1.-6. (No change.)

7. Verifying that each Medicaid-eligible participant is eligible to receive services available at the adult day health services facility [or the pediatric day health services facility] prior to the participant's entry into the program. For the purposes of this section, the administrator shall be entitled to rely on any prior authorization performed by the Department for the participant in accordance with N.J.A.C. 8:86.

8:43F-3.3 Administrative policies and procedures

(a)-(c) (No change.)

(d) A policy and procedure manual(s) for the organization and operation of the facility shall be developed, implemented, and reviewed at intervals specified in the manual(s). Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1.-7. (No change.)

8. Policies and procedures for complying with applicable statutes and protocols to report abuse or mistreatment of [elderly or disabled adults] **participants**, elopement, [child abuse,] sexual abuse, specified communicable disease, rabies, poisonings[,], and unattended or suspicious deaths. These policies and procedures shall include, but not be limited to[, the following]:

i. The notification of any suspected case of participant abuse or exploitation **that occurs during the participant's participation in adult day health services** to the [State of New Jersey] Office of the [Ombudsman] **Ombudsperson** for the Institutionalized Elderly **in the Division of Elder Advocacy of the New Jersey Department of the Public Advocate**, pursuant to N.J.S.A. 52:27G-7.1 et seq., if the participant is 60 years of age or older, and if less than 60 years of age, to the [DHSS Complaint Program, Division of Long Term Care Systems] **Assessment**

and Survey Unit in the Division of Health Facilities Evaluation and Licensing of the Department;

ii. The notification of any suspected case of participant abuse or exploitation that occurs outside of the participant's participation in adult day health services that is discovered by facility staff to Adult Protective Services, pursuant to N.J.S.A. 52:27D-46 et seq., if the participant is 60 years of age or older;

[ii.] **iii. The notification of any suspected case of [child] abuse or exploitation to the New Jersey Department of [Human Services] **Children and Families**, Division of Youth and Family Services of a participant who is 16 or 17 years of age;**

[iii.] **iv. The development of written protocols for the identification and the treatment of [children, elderly or disabled adults] **participants** who are abused and/or neglected;**

[iv.] **v. The provision at least annually of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of sexual abuse; domestic violence; abuse of [the elderly or disabled adult; child abuse;] **participants** and the facility's policies and procedures; and**

[v.] **vi. (No change in text.)**

(e)-(f) (No change.)

8:43F-3.6 Participant care policies and procedures

(a) Written policies and procedures for the care of participants shall be established, implemented, and reviewed at intervals specified in the policies and procedures. Each review of the policies and procedures shall be documented. Policies and procedures shall include, but not be limited to, policies and procedures for the following:

1.-5. (No change.)

6. The [control] **prohibition** of smoking in the facility in accordance with N.J.S.A. 26:3D-[1]**55** et seq.;

[i. At the facility's option, a smoke-free policy may be developed, which includes adequate notice to all applicants for admission to the facility;

ii. In the event that participants, staff and visitors are permitted to smoke, they shall smoke only in designated smoking areas having adequate outside ventilation;

iii. Nonflammable ashtrays in sufficient numbers shall be provided in designated smoking areas;

iv. Any room designated for smoking shall have acceptable indoor air quality and be equipped with a ventilation system that prevents contaminated air from recirculating through the facility;]

7.-9. (No change.)

SUBCHAPTER 4. PARTICIPANT RIGHTS

8:43F-4.1 Policies and procedures regarding participant rights

(a)-(b) (No change.)

(c) The facility shall comply with all applicable State and Federal [statutes and rules] **laws** concerning participant rights.[, including N.J.S.A. 52:27G-7.1 et seq. The facility shall notify the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly at 1-877-582-6995 of any suspected case of participant abuse or exploitation that occurred in the facility pursuant to N.J.S.A. 52:27G-7.1 et seq., if the participant is 60 years of age or older. The facility shall report to Adult Protective Services any suspected case of participant abuse or exploitation that occurred outside the facility that is discovered by facility staff, pursuant to N.J.S.A. 52:27D-46 et seq., if the participant is 60 years of age or older. For adult participants under 60 years of age, the facility shall notify the Department of Health and Senior Services.]

[(d) The Department of Human Services, Division of Youth and Family Services, shall be notified of any suspected child abuse.]

8:43F-4.2 Rights of each participant

(a) (No change.)

(b) The administrator shall provide all participants and/or their families with the name, address, and telephone number of the following offices where complaints may be lodged:

Division of [Long Term Care Systems] **Health Facilities Evaluation and Licensing**

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

New Jersey Department of Health and Senior Services
PO Box 367
Trenton, [New Jersey] **NJ** 08625-0367
Telephone: (800) 792-9770

[State of New Jersey]
Office of the [Ombudsman] **Ombudsperson for the Institutionalized Elderly**
Division of Elder Advocacy
New Jersey Department of the Public Advocate
PO Box [808] **852**
Trenton, [New Jersey] **NJ** 08625-[0808]**0852**
Telephone: [1-](877)[-]582-6995

Division of Medical Assistance and Health Services
New Jersey Department of Human Services
PO Box 712
Trenton, [N.J.] **NJ** 08625-0712
Telephone: (609) 588-3828

Division of Youth and Family Services
New Jersey Department of [Human Services] **Children and Families**
PO Box [717] **729**
Trenton, [N.J.] **NJ** 08625-[0717]**0729**
Telephone: (609) [292-6920, or (800) 792-8610] **984-4500, or to report child abuse or neglect, 1-877-NJABUSE (652-2873)**

(c) The administrator shall also provide all participants and/or their families with the telephone number of the local (county) agency of the Adult Protective Services Program (APS), for adult participants, or the Division of Youth and Family Services Office of Child Abuse Control or District Office, for [pediatric] participants **who are 16 or 17 years of age.**

(d) (No change.)

SUBCHAPTER 6. GENERAL SERVICES

8:43F-6.1 General services provided

(a)-(b) (No change.)

(c) The facility shall provide or arrange for occupational therapy, physical therapy, and speech-language pathology services, either in the facility or outside of the facility. Habilitative services shall be provided or arranged for [children and adult] participants with developmental disabilities.

(d)-(f) (No change.)

8:43F-6.3 Personnel

(a) The facility shall make reasonable efforts to ensure that all staff providing direct care to participants in the facility are in good health, are concerned for the safety and well-being of participants, and have not been convicted of a crime relating adversely to the person's ability to provide care to participants, except when the applicant or employee with a criminal history has demonstrated his or her rehabilitation, in accordance with the standards set forth at N.J.S.A. 2A:168A-1 et seq., and N.J.A.C. 8:43F-2.1(a)8ii, in order to qualify for employment at the facility.

1. [In adult day health services facilities, "reasonable] **"Reasonable** efforts" shall include, but not be limited to, an inquiry on the employment application, reference checks, and/or criminal background checks when necessary for compliance with N.J.A.C. 8:43F-[2.1(a)9]**2.1(a)8**.

i. Administrators and owners of adult day health services facilities shall have clearance from the Criminal Background Investigation in accordance with N.J.A.C. 8:43F-[2.1(a)9]**2.1(a)8**.

[2. In a pediatric day health services facility, no individual may be employed until he or she receives clearance from the Criminal Background Investigation in accordance with N.J.A.C. 8:43F-2.1(a)8.]

(b)-(f) (No change.)

8:43F-10.1 Dietary services

The adult [or pediatric] day health services facility shall provide a minimum of one meal per day to participants, as well as nutritionally appropriate snacks. The meal shall supply at least one-third of the daily caloric and protein requirements recommended by the Nutrition Board of the National Academy of Sciences, National Research Council, and shall contain three or more menu items, one of which is or includes a high quality protein food such as meat, fish, eggs[,] or cheese.

SUBCHAPTER 14. PHYSICAL PLANT REQUIREMENTS

8:43F-14.1 Physical plant

(a) Construction standards for freestanding facilities for new buildings and alterations, renovations, and additions to existing buildings for freestanding adult

[or pediatric] day health services facilities shall comply with N.J.A.C. 5:23-3.2 of the New Jersey Uniform Construction Code; the New Jersey Uniform Fire Code, N.J.A.C. 5:70; and with N.J.A.C. 5:23-7, the Barrier-Free Subcode of the New Jersey Uniform Construction Code.

(b)-(d) (No change.)

8:43F-14.3 Functional service areas

(a) Each adult [or pediatric] day health services facility shall provide the following service areas on-site:

1.-7. (No change.)

(b) Toilet facilities shall be provided to meet the needs of participants, staff and visitors.

1.-2. (No change.)

[3. Pediatric day health services facilities shall have one toilet and one sink for every 15 children as well as two diaper changing areas within 15 feet of a handwashing sink.]

SUBCHAPTER 16. INFECTION CONTROL, SANITATION[,] AND HOUSEKEEPING

8:43F-16.2 Infection control policies and procedures

(a)-(b) (No change.)

(c) The facility shall document evidence of annual vaccination against influenza for each [adult] participant, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccination, incorporated herein by reference, unless such vaccination is medically contraindicated or the participant has refused the vaccine, in accordance with N.J.A.C. 8:43F-4.2(a)3. Influenza vaccination for all participants accepting the vaccine shall be completed by November 30 of each year. Participants admitted after this date, during the flu season and up to February 1, shall, as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the participant.

(d) (No change.)

[(e) Each pediatric day health services facility shall maintain an up-to-date immunization record for each participant which is appropriate to the child's age in accordance with N.J.A.C. 10:122-7.3(a)2iii and (a)5 and 6, or documentation that the child is under a prescribed medical program to obtain immunizations in accordance with the provisions of N.J.A.C. 8:57-4.]

Recodify existing (f) through (h) as **(e) through (g)** (No change in text.)

[(i)] **(h)** The facility shall [report annually] **retain copies of** the results of all tuberculin testing of personnel [to the Department of Health and Senior Services, Division of Epidemiology, Tuberculosis Program, on forms provided by the Department] **in each employee's personnel file.**

[(j)] **(i)** Written infection control policies and procedures shall include, but not be limited to, policies and procedures for the following:

1. In accordance with [Chapter II, New Jersey State Sanitary Code,] N.J.A.C. [8:59] **8:57**, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases, which are reportable or conditions, which may be related to activities and procedures of the facility[,] and maintaining records for all participants or personnel having these infections, diseases[,] or conditions;

2. Infection control in accordance with [OSHA Standards] 29 CFR[--] 1910.1030 Bloodborne pathogens, as amended and supplemented, incorporated herein by reference;

3.-8. (No change.)

Recodify existing (k) through (o) as **(j) through (n)** (No change in text.)

SUBCHAPTER 18. QUALITY IMPROVEMENT

8:43F-18.2 Use of restraints

(a)-(d) (No change.)

[(e) In pediatric day health services facilities, pediatric safety guards may be used, in accordance with assessments and care plans.]

CHAPTER 43J STANDARDS FOR LICENSURE OF PEDIATRIC MEDICAL DAY CARE FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

8:43J-1.1 Purpose and scope

(a) The purpose of this chapter is to establish licensure standards for pediatric medical day care facilities.

(b) A pediatric medical day care facility provides health care services to medically complex or technology-dependent children whose medical condition requires treatment and services beyond the scope provided by day care centers to children with special health care needs.

(c) A pediatric medical day care facility provides a comprehensive program of services designed to meet the medical, developmental, educational, nutritional, and psycho-social needs of the children served.

8:43J-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Advanced practice nurse" means an individual certified by the New Jersey State Board of Nursing in accordance with N.J.S.A. 45:11-23 et seq.

"American Academy of Pediatrics" means the entity by that name for which the contact information is American Academy of Pediatrics, 141 Northwest Point Boulevard, Elk Grove Village, IL 60007-1098, (847) 434-4000, www.aap.org.

"American College of Emergency Physicians" means the entity by that name for which the contact information is American College of Emergency Physicians, P.O. Box 619911, Dallas, TX 75261-9911, (800) 798-1822, www.acep.org.

"American Dietetic Association" means the entity by that name for which the contact information is American Dietetic Association, 120 South Riverside Plaza, Suite 2000, Chicago, Illinois 60606-6995, (800) 877-1600, www.eatright.org.

"American Heart Association" means the entity by that name for which the contact information is American Heart Association National Center, 7272 Greenville Avenue, Dallas, TX 75231, (800) AHA-USA-1, www.americanheart.org.

"Child" means an individual aged birth through the last day prior to his or her sixth birthday.

"Child life specialist" means:

1. An individual who holds the Certified Child Life Specialist credential issued by the Child Life Council, Inc., which can be contacted at 11820 Parklawn Dr., Suite 240, Rockville, MD 20852-2529, (301) 881-7090, www.childlife.org; or

2. Until (three years from the effective date of this chapter), an individual who meets the educational eligibility requirements for certification as a Certified Child Life Specialist by the Child Life Council, Inc., and who has at least one year of full-time experience working with children in a health care or educational setting.

"Class III medical device" means a medical device that the FDA has categorized as "class III" as defined at 21 CFR 860.3.

"Consultant pharmacist" means a pharmacist who has formalized his or her training in pediatric pharmacy through:

1. One year of experience in the full-time practice of pharmacy in a licensed pediatric healthcare facility; and

2. At least 10 hours of continuing education in pediatric pharmacy in his or her last renewal cycle for licensure as a pharmacist.

"Daily census" means the number of children who, during any calendar day, receive services in a facility.

"Department" means the New Jersey Department of Health and Senior Services.

"Device" means a device as that term is defined at Section 201(h) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §321(h).

"Direct care staff" means employees of a facility who provide care to children in the facility under the supervision of the nursing director.

"Drug" or "medication" means a substance as defined in the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39-1.2.

"Emergency Nurses Association" means the entity by that name for which the contact information is Emergency Nurses Association, 915 Lee Street, Des Plaines, IL 60016-6569, (800) 900-9659, www.ena.org.

"Facility" means a pediatric medical day care facility.

"Family" means individuals who are related by blood, marriage, civil union, domestic partnership or a legal process.

"Full-time equivalent" means any combination of staff who work part-time on any given day and together provide the same number of working hours as one full-time staff person.

"Initial plan of care" means a care plan based on an initial assessment completed prior to or the day of admission that guides a child's care until an interdisciplinary plan of care is completed.

"Interdisciplinary plan of care" means an individualized comprehensive plan of medical, nursing, psychosocial, developmental and educational therapies that specifies the goals to be achieved, discharge planning and the disposition to be followed in the event of emergency situations.

"Interdisciplinary team" means those individuals representing different professions, disciplines and services who work together to provide an integrated program of care to a child.

"Licensed nurse" means a registered professional nurse and/or a licensed practical nurse.

"Licensed nursing staff" means registered professional nurses and/or licensed practical nurses under the employ of a facility.

"Licensed practical nurse" or "LPN" means an individual who is licensed by the New Jersey State Board of Nursing pursuant to N.J.S.A. 45:11-27.

"Medicaid" means medical assistance provided under a State plan approved under Title XIX of the Social Security Act or otherwise authorized under Title XIX or Title XXI of the Social Security Act, including Medicaid Waiver programs authorized under §§1115 and/or 1915 of the Social Security Act.

"Medicaid beneficiary" means a child who has been determined by the County Board of Social Services to be financially eligible to participate in Medicaid.

"Medical director" means a physician certified by the American Board of Pediatrics who serves as liaison between a pediatric medical day care

This is an unofficial version of the proposal. The official proposal can be found in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6266(a), as published by LexisNexis.

facility and the medical community, reviews the quality and appropriateness of pediatric medical day care facility policies and services, and is available for consultation to the pediatric medical day care facility staff.

"Medical record" means all records in a facility pertaining to a child and maintained in accordance with this chapter.

"Medically complex child" means a child who exhibits a severity of illness that requires ongoing skilled nursing intervention.

"Medication administration" means a procedure in which a prescribed medication is given to a child by an authorized person in accordance with all laws and rules governing such procedures.

"National Academy of Sciences" means the entity by that name for which the contact information is National Academy of Sciences, 500 Fifth St. NW, Washington, DC 20001, (202) 334-2000, www.nationalacademies.org.

"Neonatal intensive care unit" or "NICU" means a unit that provides "neonatal intensive care" as that term is defined at N.J.A.C. 8:33C-1.2.

"Occupational therapist" means an individual who is licensed by the New Jersey Occupational Therapy Advisory Council in accordance with N.J.S.A. 45:9-37.51.

"Office of Certificate of Need and Healthcare Facility Licensure" means the health care facility licensing unit within the Division of Health Facilities Evaluation and Licensing of the Senior Services and Health Systems Branch of the Department, for which the contact information is Office of Certificate of Need and Healthcare Facility Licensure, Division of Health Facilities Evaluation and Licensing, Department of Health and Senior Services, PO Box 358, Trenton, NJ 08625-0358, (609) 292-5960, website address for forms: www.nj.gov/health/forms.

"Ongoing" means 24 hours per day, seven days per week.

"Parent" means:

- 1. A biological or adoptive parent;**
- 2. A foster parent of a child, pursuant to the definition of a "resource parent," as defined at N.J.A.C. 10:121-1.1;**
- 3. A guardian generally authorized to act as the child's parent (but not the State if the child is a ward of the State);**

4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;

5. An individual appointed by a court having jurisdiction over the child, pursuant to 34 CFR 300.30(b)(2); or

6. A surrogate parent assigned pursuant to N.J.A.C. 8:17-5.

"Pediatric intensive care unit" means a unit licensed under N.J.A.C. 8:43G-22.

"Pediatric medical day care" or "PMDC" means a health care service designed to meet the medical, developmental, educational, nutritional and psycho-social needs of medically complex and/or technology-dependent children whose medical condition requires treatment and services beyond the scope provided to children with special health care needs by day care centers or preschool programs.

"Pediatric medical day care facility" or "PMDC facility" means a pediatric day health care facility as specified at N.J.S.A. 26:2H-7a.

"Pharmacist" means an individual who is licensed by the New Jersey State Board of Pharmacy, pursuant to N.J.A.C. 13:39-3.

"Physical therapist" means an individual who is licensed by the New Jersey State Board of Physical Therapy Examiners, pursuant to N.J.S.A. 45:9-37.11 et seq.

"Physician" means an individual who is licensed by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey, pursuant to N.J.S.A. 45:9-1 et seq.

"Prescriber" means an individual who is authorized to write prescriptions in accordance with Federal and State laws.

"Primary health care provider" means a child's physician or advanced practice nurse who provides ongoing medical care, maintains responsibility for the child's overall therapeutic plan, and is available for consultation and collaboration with the pediatric medical day care facility staff.

"Progress note" means a written, signed, and dated notation or, if a computerized medical records system is used, an authenticated electronic notation, summarizing information about care provided and the child's response to it.

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"Registered dietitian" means an individual so credentialed by the American Dietetic Association."

"Registered professional nurse" or "R.N." means a person who is licensed as such by the New Jersey State Board of Nursing, pursuant to N.J.S.A. 45:11-26.

"Rehabilitation services" means physical therapy, occupational therapy, and speech-language pathology services.

"Schedule II controlled substance" means a substance so defined pursuant to N.J.S.A. 24:21-6.

"Signature" means, at a minimum, the first initial and full surname and title (for example, R.N., A.P.N., P.A., L.P.N., D.D.S., M.D., D.O.) of a person, legibly written in his or her own hand, or by means of a controlled electronic signature system.

"Skilled nursing intervention" means care that requires the knowledge and experience of licensed nursing staff or a specially trained primary caregiver able to meet the specific needs of the child in the child's home.

"Slots" means the number of children for which a facility is licensed to provide services.

"Social worker" means an individual who is certified or licensed by the New Jersey State Board of Social Work Examiners, pursuant to N.J.S.A. 45:15BB-1 et seq.

"Speech-language pathologist" means an individual who holds a current New Jersey license issued by the Audiology and Speech-Language Pathology Advisory Committee of the Division of Consumer Affairs of the New Jersey Department of Law and Public Safety, pursuant to N.J.S.A. 45:3B-1 et seq.

"Technology-dependent child" means a child who requires a specific class III medical device to compensate for the loss of a vital body function to avert death or further disability and ongoing skilled nursing intervention in the use of the device.

"Toddler" means a child less than three years of age who has not mastered independent ambulation.

"Transportation services" means the conveying of children who require transportation between the facility and the child's home, either directly or through contractual arrangements, in accordance with N.J.A.C. 8:43J-16.

"Unlicensed assistive personnel" means unlicensed individuals to whom selected nursing tasks are delegated.

SUBCHAPTER 2. LICENSURE PROCEDURES

8:43J-2.1 Licensee

(a) The license holder shall have responsibility for the operation, management and financial viability of its facility.

(b) The licensee shall disclose in writing to the Department the ownership of entities that hold the license, any management company hired to operate the facility and the ownership of the property on which the facility operates and shall make ownership information available in the facility on request to any party.

(c) Absent a finding by the Department that the individual is rehabilitated using the standards and procedures at N.J.A.C. 8:43J-2.5(a)2, an individual is ineligible to own or operate a facility in New Jersey if the individual:

- 1. Has a history of continuing or serious violations of N.J.A.C. 8 or 10;**
- 2. Has engaged in conduct that would constitute continuing or serious violations of N.J.A.C. 8 or 10 if the conduct occurred in New Jersey; or**
- 3. A forum of competent jurisdiction has made a finding of the individual's dishonesty or of unethical conduct in either a civil or a criminal matter.**

8:43J-2.2 Licensure application procedures and requirements

(a) A person, organization or corporation desiring to operate a pediatric medical day care facility, or to expand or relocate an existing facility, shall submit a project proposal and a completed Application for a Long Term Care Facility License LCS-9, along with the appropriate licensure fee.

1. The application form can be obtained from the Department's forms website at nj.gov/health/forms, or upon request to the following:

**Director, Office of Certificate of Need and Healthcare Facility
Licensure
Division of Health Care Facilities Evaluation and Licensing
NJ Department of Health and Senior Services
PO Box 358
Trenton, NJ 08625-0358**

2. The project proposal shall include scaled plans of the proposed facility, for preliminary review.

(b) A person, organization or corporation desiring to operate a pediatric medical day care facility, or to expand or relocate an existing facility, shall submit the following, on the licensure application form provided by the Department:

- 1. The name the facility shall be operating under;**
- 2. The street address of the facility;**
- 3. The number of slots sought;**
- 4. The name and address of the applicant seeking licensure;**
- 5. Type of business organization;**
- 6. Identification of the ownership of the physical plant;**
 - i. If the physical plant is to be leased, a signed copy of the lease;**
- 7. Identification of any management company that will be operating the facility, including the entity's name and address and the name, title and telephone number of a contact person;**
- 8. Identification of 100 percent of the proposed owners, including the names and addresses of all principals (that is, individuals and/or entities with a 10 percent or more interest);**
- 9. Whether any person mentioned in the application has ever had any interest in any application for a health care facility in New Jersey or any other state, which was denied or revoked.**

i. If yes, provide whom and the details;

10. Whether any of the principals have an ownership, management, or operational interest in a licensed health care facility in New Jersey, or any other state.

i. If yes, indicate whom and submit a listing of the licensed health care facilities;

11. Whether any person mentioned in the application is related to any person who now operates or has operated a health care facility in New Jersey or any other state.

i. If yes, indicate whom, the relationship, and a listing of the licensed health care facilities;

12. Whether any principals, owners, operators or managers of the facility have ever been found guilty of a criminal or administrative charge of fraud, abuse and/or neglect of a resident, participant and/or patient.

i. If yes, indicate whom and provide details;

13. Whether any principals, owners, operators or managers of the facility have ever been indicted for or convicted of a felony crime.

i. If yes, indicate whom and provide details;

14. The name and address of an agent in the State of New Jersey for service of process; and

15. A certification, signed by the applicant that states:

i. All the information submitted is true and correct to the best of the applicant's knowledge and belief and that willful misrepresentation of the facts contained in the application shall make the applicant subject to civil penalties;

ii. The governing body of the applicant has duly authorized the application; and

iii. The applicant shall operate the facility in accordance with applicable licensing requirements.

(c) Approval of a project proposal is contingent upon a review of the applicant's track record, in accordance with N.J.A.C. 8:43E-5.1(b), and compliance with this chapter.

(d) Any proposed pediatric medical day care facility shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box 815, Trenton, NJ 08625-0815, for review and approval prior to the initiation of construction, renovations or expansion.

1. Construction of freestanding facilities for new buildings and alterations, renovations, and additions to existing buildings for freestanding pediatric medical day care facilities shall comply with N.J.A.C. 8:43J-13.

2. Construction of facilities within long-term care facilities for new buildings and alterations, renovations, and additions for pediatric medical day care facilities in existing buildings, which are part of long-term care facilities shall comply with N.J.A.C. 8:43J-13.

(e) The Department recommends that applicants contact the Office of Certificate of Need and Healthcare Facility Licensure prior to the submission of construction plans to the Department of Community Affairs, as the Department of Community Affairs reviews construction plans for compliance with building code standards, and not for compliance with the physical plant standards contained in this chapter to schedule a functional review of their proposed projects, including, but not limited to:

- 1. Physical plant plans;**
- 2. Policies and procedures;**
- 3. Licensing protocols; and**
- 4. Applicable rules and regulations.**

(f) When a newly constructed facility is approximately 80 percent complete or when an applicant's estimated date of opening is within 30 days, the applicant shall schedule a preliminary conference with the Department's Assessment and Survey Program for review of the conditions for licensure and operation.

(g) In accordance with N.J.A.C. 8:43J-2.5, the Department shall not license a facility until the owners, administrators, volunteers and employees

of the facility have clearance from the Department's Criminal Background Investigation Unit.

(h) An application for a license or change in service shall be denied if the applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws and standards of health care are fit and adequate and that the facility will be operated in accordance with this chapter.

8:43J-2.3 License

(a) The Department shall issue a license to the operator of the facility when:

1. The applicant submits the following documents to the Office of Certificate of Need and Healthcare Facility Licensure:

i. A copy of the certificate of occupancy from the local authority;

ii. Documentation of a satisfactory fire safety inspection by the local fire authority; and

iii. A copy of the written final release of the physical plant construction plans by the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, if applicable; and

2. A survey by Department staff indicates that the facility complies with this chapter and N.J.S.A. 26:2H-1 et seq.

(b) A facility shall be licensed for a maximum of 27 slots.

(c) A facility shall exceed its licensed capacity only to the extent that a facility's on-site daily census may be three children more than the number of slots for which the facility is licensed for provided that:

1. The facility is appropriately staffed and meets the physical plant requirements for the number of children present; and

2. The facility maintains an on-site average daily census of the number of slots the facility is licensed for or fewer children.

i. Average daily census shall be calculated each calendar quarter beginning on January 1 of the calendar year.

(d) A facility shall provide only one session each calendar day.

(e) A license shall be granted for a period of one year.

(f) The license shall be conspicuously posted in the facility.

(g) A license is not assignable or transferable and shall be immediately void if the facility ceases to operate, if the facility's ownership changes, or if the facility is relocated to a different site.

8:43J-2.4 Fees

(a) The Department shall charge the following nonrefundable fees:

1. Application for licensure	\$ 1,500 plus \$ 10.00 per slot
2. Annual renewal fee.	\$ 1,500 plus \$ 10.00 per slot
3. Addition of program slots	\$ 1,500 plus \$ 10.00 per slot
4. Reduction of program slots.	\$ 375.00
5. Relocation of existing facility	\$ 375.00
6. Transfer of ownership application	\$ 1,500
7. Inspection fee (initial).	\$ 450.00
8. Inspection fee (biennial)	\$ 450.00

(b) Failure to pay any of the applicable fees shall result in nonrenewal of the license for existing facilities and the refusal to issue an initial license for new facilities.

8:43J-2.5 Requirement for criminal background investigation

(a) The Department shall not issue or continue licensure for the operation of a pediatric medical day care facility unless, in accordance with N.J.S.A. 30:5B-6.10 et seq., current or prospective staff members, administrators, and individuals seeking employment at or ownership of a pediatric medical day care facility, including volunteer staff, shall have obtained clearance from the Department's Criminal Background

Investigation Unit, prior to respectively, owning, operating, administering, volunteering or working for a pediatric medical day care facility.

1. In accordance with N.J.S.A. 30:5B-6.14, the Department shall not issue clearance to own, operate, administer, volunteer or work for a pediatric medical day care facility to a person who has been convicted of any of the following crimes and offenses:

i. A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4;

ii. Child molestation, pursuant to N.J.S.A. 2C:14-1 et seq.;

iii. Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:6-3;

iv. Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;

v. Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 2C:14-4, inclusive;

vi. Murder, pursuant to N.J.S.A. 2C:11-3 or manslaughter, pursuant to N.J.S.A. 2C:11-4;

vii. Stalking, pursuant to N.J.S.A. 2C:12-10;

viii. Kidnapping and related offenses, including criminal restraint, false imprisonment, interference with custody, criminal coercion or enticing a child into a motor vehicle, structure or isolated area, in violation of any crime established in Chapter 13 of Title 2C of the Revised Statutes of New Jersey (N.J.S.A. 2C:13-1 et seq.);

ix. Arson, pursuant to N.J.S.A. 2C:17-1 or causing or risking widespread injury or damage that would constitute a crime of the second degree or higher, pursuant to N.J.S.A. 2C:17-2;

x. Terroristic threats, pursuant to N.J.S.A. 2C:12-3; and

xi. An attempt or conspiracy to commit any of the crimes or offenses listed in (a)1i through x above.

2. For convictions of crimes and offenses other than those listed in (a)1i through xi above, the Department shall issue clearance to own, operate,

administer, work or volunteer to work for a pediatric medical day care facility to a person if the Department determines that the person has demonstrated clear and convincing evidence of the person's rehabilitation, upon the Department's consideration of the following:

i. The nature and responsibility of the position that the applicant would hold or currently holds at the facility, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the person when the offense was committed;

vi. Whether the offense was an isolated or repeat incident;

vii. Any social conditions that may have contributed to the offense;
and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs or the recommendation of those who have had the person under their supervision.

3. For convictions occurring in any other state or jurisdiction, conduct that, if committed in New Jersey, would constitute any of the crimes or offenses described in (a)1 above.

(b) In accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, the Department shall give any individual disqualified from owning, operating, administering, volunteering or working for a pediatric medical day care facility pursuant to (a)1 above an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

(c) The Department shall give an individual disqualified from owning, operating, administering, volunteering or working for a pediatric medical day care facility pursuant to (a)1 above the opportunity to challenge the accuracy of the disqualifying criminal history record or the denial of a determination of rehabilitation pursuant to (a)1i through viii above.

(d) Pursuant to N.J.S.A. 30:5B-6.13, a staff member who has been fingerprinted and is awaiting the results of the criminal background investigation may begin employment, as long as the staff member is not left unsupervised with children.

1. A staff member awaiting the results of a criminal background investigation shall not count towards the facility's staffing level.

8:43J-2.6 Facility standards

(a) Any existing or proposed facility with a construction program shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box 815, Trenton, NJ 08625-0815, for review and approval prior to the initiation of construction, renovations or expansion.

1. Construction of freestanding facilities for new buildings and alterations, renovations, and additions to existing buildings for freestanding facilities shall comply with N.J.A.C. 8:43J-13.

2. Construction of facilities within long-term care facilities for new buildings and alterations, renovations and additions for facilities in existing buildings that are part of long-term care facilities shall comply with N.J.A.C. 8:43J-13.

3. The physical standards of an existing building that a facility intends to locate or relocate to shall comply with N.J.A.C. 8:43J-13.

8:43J-2.7 Surveys

(a) When the Department approves an initial licensure application and the facility is ready for occupancy, representatives of the Department shall conduct a survey of the facility to determine if the facility adheres to this chapter.

1. The Department shall notify the facility in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Division of Health Care Facilities Evaluation and Licensing when the deficiencies, if any, have been corrected, and the Department shall schedule one or more resurveys of the facility prior to occupancy of the facility.

3. The facility shall employ professional personnel in accordance with the staffing requirements in this chapter.

(b) No facility shall admit children to the facility until the Office of Certificate of Need and Healthcare Facility Licensure issues a license to operate the facility.

(c) Authorized representatives of the Department may make survey visits to a facility at any time.

1. Such visits may include, but not be limited to, the review of all facility documents and children's records and conferences with children and their parents and with staff.

(d) The Department shall conduct an ongoing evaluation of the pediatric medical day care facility by on-site visits and shall inform the facility, in writing, of the results of the on-site evaluation.

(e) The Department may request a plan of correction if the Department finds the facility to be in noncompliance with this chapter or otherwise violating any applicable laws, in which request the Department shall specify a date on which the facility's plan of correction is due to the Department.

1. The facility shall submit by the requested date a plan of correction that addresses deficiencies noted by the Department staff.

i. If a follow-up on-site visit by the Department reveals that the facility is not implementing the plan of correction, the Department shall take enforcement action in accordance with N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to all Licensed Facilities.

ii. Non-compliance with this chapter may result in the Department's imposition of sanctions and remedies upon a facility in accordance with N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to all Licensed Facilities.

2. Facilities wishing to contest decisions made by the Department pursuant to this section may request a hearing pursuant to the procedures set forth in N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to all Licensed Facilities.

8:43J-2.8 Licensure renewal

(a) The Department shall issue to the facility a renewal application form pursuant to (c) below and a licensure fee request form requiring submission of the information in (c) and the renewal fee 30 days prior to the expiration of the facility license unless the Department has suspended or revoked the license.

(b) The Department shall not issue a renewed license until the Department receives a completed renewal application and the appropriate licensure renewal fee.

(c) A facility desiring to renew its license shall submit the following, on a licensure renewal application form that the Department provides pursuant to (a) above:

- 1. The name under which the facility has been operating;**
- 2. The street address of the facility;**
- 3. The number of slots;**
- 4. The name and address of the applicant seeking renewal;**
- 5. The type of business organization;**
- 6. Identification of the ownership of the physical plant.**
 - i. If the physical plant is to be leased, a signed copy of the lease;**
- 7. Identification of any management company that will be operating the facility, including the entity's name and address and the name, title and telephone number of a contact person;**
- 8. Identification of 100 percent of the proposed owners, including the names and addresses of all principals (that is, individuals and/or entities with a 10 percent or more interest);**
- 9. Whether any person mentioned in the renewal application has ever had any interest in any application for a health care facility, in New Jersey or any other state, which was denied or revoked.**
 - i. If yes, indicate whom and the details;**

10. Whether any of the principals have an ownership, management or operational interest in a licensed health care facility in New Jersey or any other state.

i. If yes, indicate whom and provide a list of the licensed health care facilities;

11. Whether any person mentioned in the renewal application is related to any person who now operates or has operated a health care facility in New Jersey or any other state.

i. If yes, indicate whom, the relationship, and provide a list of the licensed health care facilities;

12. Whether any principals, owners, operators or managers of the facility have ever been found guilty of a criminal or administrative charge of fraud, abuse and/or neglect of a resident, a participant and/or a patient.

i. If yes, indicate whom and provide details;

13. Whether any principals, owners, operators or managers of the facility have ever been indicted for or convicted of a felony crime.

i. If yes, indicate whom and provide details;

14. The name and address of an agent in the State of New Jersey for service of process; and

15. A certification, signed by the applicant that states:

i. All the information submitted is true and correct, to the best of the applicant's knowledge and belief, and that willful misrepresentation of these facts may make the applicant subject to civil penalties;

ii. The application has been duly authorized by the governing body of the applicant; and

iii. The facility has been operated in accordance with applicable licensing requirements.

(d) The license shall not be renewed if local rules, regulations, and/or requirements are not met.

8:43J-2.9 Surrender of license

(a) The facility shall notify the Department, each child's parent, the child's primary health care provider and any guarantors of payment:

- 1. At least 30 days prior to the voluntary surrender of a license or relocation of a facility; or**
- 2. As the Department directs in an order of revocation or suspension or in a notice of refusal to renew.**

(b) The facility shall return the license to the Office of Certificate of Need and Healthcare Facility Licensure within seven working days after the voluntary surrender or the revocation, suspension or non-renewal of its license.

8:43J-2.10 Action against a licensee

(a) Pursuant to N.J.S.A. 26:2H-1 et seq., the Commissioner or his or her designee may impose all enforcement actions permitted under N.J.A.C. 8:43E for violation of this chapter or other laws.

(b) Enforcement actions include civil monetary penalty, curtailment of admissions, appointment of a receiver, revocation of a license, order to cease and desist operation of an unlicensed health care facility and other remedies for violations of law.

8:43J-2.11 Hearings

(a) If the Department proposes to revoke, deny or refuse to renew a license, or to assess a monetary penalty pursuant to N.J.A.C. 8:43E, the licensee or applicant may request a hearing, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

8:43J-2.12 Transfer of ownership

(a) Prior to transferring ownership of a facility, the prospective owner shall apply to the Office of Certificate of Need and Healthcare Facilities Licensure for approval of the transfer by submitting the following:

- 1. A cover letter stating the proposed owner's intention to purchase the facility, identifying the facility by name, address and county and stating the licensed child capacity (that is, the number of licensed slots);**

2. A written description of the proposed transaction, including:

i. Identification of the current owners of the facility;

ii. Identification of 100 percent of the proposed owners, including the names and addresses of all principals (that is, individuals and/or entities with a 10 percent or more interest); and

iii. If applicable, a copy of an organizational chart, including parent corporations and wholly owned subsidiaries of the proposed owner;

3. A copy of the agreement of sale and, if applicable, a copy of any lease; and

4. The names of any licensed health care facilities and states in which they are located that the proposed owner or any of the principals own, operate or manage in New Jersey or any other state.

i. If the proposed owner or any of its principals own, operate or manage facilities in other states, the proposed owner shall submit letters from the state health departments or applicable regulatory agencies in each of the respective states, verifying that the facilities have operated in substantial compliance during the last 12-month period and have had no enforcement actions imposed during that period of time.

(b) The Department shall review the request for authorization to transfer ownership, which review shall include an evaluation of the applicant's track record, in accordance with N.J.A.C. 8:33-4.10 and 8:43E-5.1, and clearance from the Criminal Background Investigation Unit.

(c) When the Department has reviewed the request for authorization to transfer ownership and deemed it acceptable, the Office of Certificate of Need and Healthcare Facility Licensure shall send a letter approving the transfer and licensure application forms to the proposed owner.

(d) After the transaction has been completed, the new owner shall submit the following documents to the Office of Certificate of Need and Healthcare Facilities Licensure:

1. A complete licensure application and the annual licensure fee;

2. A notarized letter stating the date on which the transaction occurred; and

3. A copy of a certificate of continuing occupancy from the local municipality or a letter from the municipality verifying a policy of not issuing any such document for changes of ownership.

(e) The Department shall not issue a license to the new owner until the Department receives the items required pursuant to (d) above.

(f) For Medicaid provider enrollment, the new owner shall contact Unisys for an application for Medicaid participation at (609) 588-6036 or access the application on the Internet at www.njmmis.com.

8:43J-2.13 Waiver of licensing standards

(a) The Commissioner or his or her designee, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq. and this chapter, may waive provisions of this chapter if, in his or her opinion, such waiver would not render the premises, equipment, personnel, finances, rules and bylaws and standards of health care at a facility unfit or inadequate.

1. A facility seeking a waiver of these rules shall apply in writing to the Director of the Office of Certificate of Need and Healthcare Facility Licensure of the Department.

2. A written request for a waiver shall include the following:

i. A citation to the specific rule or part of the rule for which a waiver is requested;

ii. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon adherence;

iii. An alternative proposal that would ensure the care and safety of the children in the facility; and

iv. Documentation to support the request for a waiver.

3. The Department may request additional information before processing a request for waiver.

8:43J-2.14 Duty to update information

(a) Whenever any information included in a license or renewal application changes, the licensee shall provide that information to the Office

of Certificate of Need and Healthcare Facility Licensure, in writing, within 10 calendar days of the change.

(b) Failure to comply with the requirements of this chapter may result in penalties being assessed against a facility pursuant to N.J.A.C. 8:43E.

SUBCHAPTER 3. ADMINISTRATION

8:43J-3.1 Appointment of the administrator

(a) The license holder shall appoint an administrator who is a full-time employee of the facility.

(b) A facility shall designate an alternate in writing to act in the absence of the administrator.

1. The designated alternate shall meet the qualification standards for an administrator at N.J.A.C. 8:43J-3.2.

(c) The administrator, or the designated alternate, shall be available on the premises of the facility during the hours when pediatric medical day care services are being provided.

(d) The administrator, or the designated alternate who is functioning as the administrator, shall not perform the duties of any other position at the facility.

8:43J-3.2 Qualifications of the administrator of a pediatric medical day care facility

(a) The administrator or designated alternate of a pediatric medical day care facility shall:

1. Have a master's degree from a college or university approved by a state department of education and at least one year of full-time administrative or supervisory experience in a licensed health care facility;

2. Have a baccalaureate degree from a college or university approved by a state department of education and three years of full-time experience in a licensed health care facility, at least one year of which shall have been in a full-time administrative or supervisory capacity; or

3. Have at least one year of full-time administrative or supervisory experience in a licensed health care facility and be:

- i. A physician;**
- ii. A licensed social worker;**
- iii. A licensed clinical social worker;**
- iv. A registered professional nurse with either a Master of Science (MS) degree or a Bachelor of Science in Nursing (BSN) degree; or**
- v. An advanced practice nurse (APN).**

(b) In addition to meeting the criteria in (a) above, the administrator of a pediatric medical day care facility shall have had at least one year of experience in the last five years in the care of children with special health care needs and be knowledgeable regarding their physical, social and medical health needs.

8:43J-3.3 Responsibilities of the administrator

(a) The administrator shall be responsible for, at minimum, the following:

- 1. Ensuring the development, implementation and enforcement of all policies and procedures, including child rights;**
- 2. Planning and administering the operational, managerial, fiscal and reporting components of the facility;**
- 3. Participating in the quality improvement program for child-care and staff performance;**
- 4. Ensuring that all personnel are assigned duties based upon their education, training, competencies and job descriptions;**
- 5. Ensuring the provision of staff orientation, staff education and ongoing staff training in accordance with this chapter;**
- 6. Establishing and maintaining liaison relationships and communication between facility staff and services providers and with a child's parent; and**
- 7. Ensuring that each child satisfies N.J.A.C. 8:43J-6.1(c) prior to admission.**

8:43J-3.4 Administrative policies and procedures

(a) If a health care facility licensed by the Department provides pediatric medical day care in addition to other health care services, the facility shall adhere to this chapter and to the applicable rules for licensure of facilities providing the other health care services.

(b) The facility shall adhere to applicable Federal, State and local laws.

(c) The facility shall develop, implement and review, at intervals specified therein, a policy and procedure manual for the organization and operation of the facility.

(d) Each review of the manual shall be documented and the manual(s) shall be available in the facility to representatives of the Department at all times.

(e) The manual shall address at least the following:

1. The program's philosophy and objectives and the services provided by the facility;

2. An organizational chart delineating the lines of authority, responsibility and accountability for the administration and child care services of the facility;

3. Specifications for each therapeutic intervention for use by all staff involved in the care of the children;

i. With respect to this requirement, the facility shall review the manual every six months to assure that the facilities procedures conform to prevailing and acceptable treatment practices.

4. The maintenance of an admission register listing children admitted by name with identifying information about each, the referral source, family contacts and emergency contacts;

5. The maintenance of a discharge register with final disposition and the discharge date;

6. The maintenance of a daily census record;

7. The maintenance of an accident and incident record;

8. The maintenance of an individual record for each child that contains:

i. Identifying data;

ii. All details of the referral and admission;

iii. Correspondence;

iv. Payer status; and

v. Medical history, prepared in ink and signed and dated by the health professional providing the service, which contains allergies, special precautions, an immunization record, the initial plan for care and updates, physician's orders, progress notes and medications dispensed;

9. Referral procedure to other health care providers in a manner that ensures the provision of a continuum of care for the child;

10. The conduct of an interdisciplinary review of each child's interdisciplinary plan of care every two months, which requires, at a minimum, that the facility share the interdisciplinary plan of care summary and recommendations with the primary health care provider, who shall approve or modify any changes in writing, and which requires the facility to give a copy of the interdisciplinary plan of care summary and recommendations to the child's parent;

11. Discharge procedures that require, at a minimum, that the facility conduct a conference involving pediatric medical day care facility staff, the child's parent and staff of other agencies involved in the child's care to discuss post-discharge care and follow-up and which require the facility to develop a written discharge summary and to enter it in the child's record within 10 business days following discharge;

12. A quality improvement program for child-care and staff performance;

13. Facility operation hours and days on which services are provided;

14. The maintenance of personnel records for each employee, which require, at a minimum, the employee's name, address, previous employment, educational background, credentials, license and/or certification and/or registration number, as applicable, with the effective date and date of expiration, and the results of the criminal background investigation;

15. The content and frequency of physical examinations, upon employment and subsequently, for employees and for other persons providing direct care services to children;

16. Procedures for follow-up of a child in the event that a child does not appear for services on scheduled days and for documentation of the follow-up in the child's medical record; and

17. Compliance with applicable statutes and protocols to report abuse or mistreatment of children, elopement, sexual abuse, specified communicable diseases, poisonings, birth defects and unattended or suspicious deaths, which shall address, at a minimum, the following:

i. The notification of any suspected case of child abuse or exploitation to the New Jersey Department of Children and Families, Division of Youth and Family Services;

ii. The development of written protocols for the identification and the treatment of children who are abused and/or neglected;

iii. The provision at least annually of education and/or training programs to appropriate persons regarding the identification and reporting of diagnosed and/or suspected cases of sexual abuse, domestic violence, child abuse and the facility's policies and procedures;

iv. Communicable disease reporting, in accordance with N.J.A.C. 8:57; and

v. Birth defect reporting, in accordance with N.J.A.C. 8:20.

(f) The policy and procedure manual shall be available and accessible to children's parents, staff and the public.

(g) The facility shall have a written agreement for services not directly provided by the facility.

1. The written agreement, or its equivalent, shall specify that the facility retain administrative responsibility for services rendered and shall require that services be provided in accordance with this chapter.

(h) Each facility shall maintain at least one bulletin board in a conspicuous location in the facility in an area accessible to the public upon which the facility shall place all notices this chapter requires to be posted.

8:43J-3.5 Childcare policies and procedures

(a) The facility shall develop, implement and review, at intervals specified in its policies and procedures, a manual of policies and procedures for the care of medically complex or technology-dependent children.

(b) Each review of the manual shall be documented and the manual shall be available in the facility to representatives of the Department at all times.

(c) The manual shall address at least the following:

1. Emergency care of children, which includes a disposition procedure to be followed in the event of a medical emergency, which includes notification of the child's parent;

2. Child instruction and health education, including the provision of printed and/or written instructions and information for a child's parent, with multilingual instructions, as indicated;

3. Advance directives, including, but not limited to, the following:

i. Routine inquiry, at the time of admission and at such other times as are appropriate under the circumstances, of a child's parent of the existence of an advanced directive;

ii. Requirements for provision of a written statement of a child's rights regarding advance directives, approved by the Commissioner or his or her designee, to such child's parent; and

iii. Requirements for documentation in the medical record;

4. The prohibition of smoking in the facility in accordance with N.J.S.A. 26:3D-55 et seq.;

5. Discharge, transfer, and readmission of children, including criteria for each; and

6. Exclusion of children and staff from the facility, and authorization to return to the facility, for children and staff with acute infectious diseases.

8:43J-3.6 Mandatory notification

(a) The facility shall notify the Department immediately by telephone at (609) 633-9034, or (609) 392-2020 after business hours, followed by written confirmation within 72 hours, of the following:

1. Termination of employment of the administrator and the name and qualifications of the administrator's replacement;

i. If a new administrator cannot be designated within 72 hours, the facility shall notify the Department in writing and the facility shall make arrangements, which are acceptable to the Department, for administrative supervision; and

ii. A new administrator shall be appointed within 30 days; and

2. Termination of employment of the nursing director and the name and qualifications of the nursing director's replacement;

i. If the facility cannot designate a new nursing director within 72 hours, the facility shall notify the Department in writing and the facility shall make arrangements that are acceptable to the Department for nursing supervision by a registered professional nurse; and

ii. The facility shall appoint a new nursing director within 30 days.

(b) The facility shall report in writing any change in the hours of operation to the Office of Certificate of Need and Healthcare Facility Licensure.

(c) The facility shall post on the bulletin board required in N.J.A.C. 8:43J-3.4(h) a notice that the following information is available in the facility to the public:

1. All waivers granted by the Department in accordance with N.J.A.C. 8:43J-2.2;

2. The list of deficiencies from the last annual licensure inspection and the list of deficiencies from any valid complaint investigation during the past 12 months;

3. The policies and procedures regarding child rights; and

4. An address and phone number at which the license holder may be contacted.

8:43J-3.7 Financial arrangements

(a) The facility shall:

- 1. Inform a child's parent in writing of the fees for services and supplies for which a fee is charged;**
- 2. Maintain a written record of all financial arrangements with the child's parent and furnish a copy of the record to the child's parent;**
- 3. Assess no additional charges, expenses or other financial liabilities in excess of the daily, weekly or monthly rate included in the admission agreement, except:**
 - i. Upon written approval and authority of the child's parent, who shall be given a copy of the written approval;**
 - ii. Upon written orders of the child's primary health care provider, specifying services and supplies not included in the admission agreement;**
 - iii. Upon 15 days' prior written notice to the child's parent of additional charges, expenses or other financial liabilities due to the increased cost of maintenance and/or operation of the facility; and/or**
 - iv. In the event of a health emergency involving the child and requiring immediate special services or supplies to be furnished during the period of the emergency.**

8:43J-3.8 Denial of admission

If a facility denies admission to a child, the administrator shall give the child's parent the reason for such denial in writing, signed by the administrator, within 15 days of the denial determination.

8:43J-3.9 Involuntary discharge

(a) The administrator shall provide written notice to a child's parent of a decision to involuntarily discharge the child from the facility at least 30 days prior to the proposed discharge date.

1. The notice shall state the reason for discharge, the right to appeal the determination, and the procedure by which to make such an appeal.

2. A copy of the notice shall be entered in the child's medical record.

(b) The child's parent shall have the right to appeal to the administrator any involuntary discharge from the facility.

1. The appeal shall be in writing and a copy shall be included in the child's medical record with the disposition or resolution of the appeal.

(c) An involuntary discharge for reasons of the welfare of the child or other children shall comply with N.J.A.C. 8:43J-4.2(a)4.

1. A facility shall not retain a child who manifests a degree of behavioral disorder that causes the facility to reasonably believe that the child is a danger to himself or herself or others or whose behavior would interfere with the health or safety or well-being of other children.

8:43J-3.10 Interpretation services

The facility shall demonstrate the ability to provide a means to communicate with children and/or their parents who are non-English speaking and/or have communication disabilities, using available community or on-site resources.

8:43J-3.11 Notification of parent

The facility shall notify the child's parent in the event that the child sustains an injury, or an accident or incident occurs, immediately after the occurrence and shall document the notification in the child's medical record immediately following such notification.

8:43J-3.12 General record policies

(a) The facility shall maintain the following records:

1. A chronological listing of children admitted and discharged, including the destination of children who are discharged; and

2. Statistical data concerning use of program services and demographic information related to children.

8:43J-3.13 Required documents

(a) All facilities shall have the following documents on the premises and available to staff:

- 1. This chapter;**
- 2. N.J.A.C. 8:43E;**
- 3. N.J.A.C. 8:87;**
- 4. N.J.A.C. 10:122; and**
- 5. The facility's policy and procedure manual(s).**

SUBCHAPTER 4. CHILD RIGHTS

8:43J-4.1 Policies and procedures regarding the rights of children

(a) The facility shall establish and implement written policies and procedures regarding the rights of children, which shall be available to the child's parent, staff and the public and shall post them in a conspicuous location in the facility in English and the primary language(s) of the children's parents.

(b) The facility shall provide staff with in-service education concerning the implementation of policies and procedures regarding child rights.

(c) The facility shall notify the Department of Children and Families, Division of Youth and Family Services, of any suspected child abuse.

(d) The facility shall comply with all applicable laws concerning child rights.

8:43J-4.2 Rights of each child

(a) The facility shall establish policies and procedures to protect the rights of each child, that require, at a minimum, that children's parents:

- 1. Are informed of these rights, as evidenced by the execution of a written acknowledgement of receipt of this information prior to or upon admission, in terms that the child's parent understands;**

2. Are informed of services available in the facility and of the names and professional status of the personnel providing and/or responsible for the child's care and receive a written statement of fees and related charges, including the payment, fee, deposit and refund policy of the facility, any charges for services not covered by sources of third-party payment or by the facility's basic rate and any special payment plans established by the facility;

3. Are assured of the child's care in accordance with the interdisciplinary plan of care, is informed of the interdisciplinary plan of care, and have the opportunity to participate in the planning of the child's care;

4. Are advised that the facility shall transfer or discharge the child for medical reasons or for the welfare of the child or of other children only upon the written order of the child's primary health care provider, as documented in the child's medical record, except in an emergency situation, in which case the administrator shall notify the primary health care provider and the child's parent immediately following the transfer and document the reason for the transfer in the child's medical record.

i. If the facility requests a transfer or discharge on a non-emergency basis, including transfer or discharge for nonpayment for services (except as prohibited by sources of third-party payment), the child's parent shall be given at least 30 days advance written notice of such transfer or discharge;

5. Have access to and/or may obtain a copy of the child's medical record, in accordance with the facility's policies and procedures;

6. Are assured that the child shall be free from mental and physical abuse, exploitation and the use of chemical and physical restraints, unless the use of restraints are authorized by a written order from the child's primary health care provider and that medications shall not be used for punishment or for convenience of facility personnel;

7. Are assured that the child's records and disclosures shall receive confidential treatment and that the parent shall have the opportunity to approve or refuse their release to any individual in writing, except in the case of the child's transfer to another health care facility or as required by law or third-party payment contract;

8. Are advised that the child shall be treated with courtesy, consideration, respect and full recognition of the child's dignity, individuality and right to privacy, including, but not limited to, auditory and visual privacy

and confidentiality concerning treatment and disclosures and that the privacy of the child's body shall be maintained during toileting, bathing and other activities of personal hygiene;

9. Are advised that the child shall not be deprived of any constitutional, civil and/or legal rights;

10. Are informed that every parent has the right, personally or through others, to present grievances to local or State authorities without reprisal, interference, coercion or discrimination of the child as a result of such grievance or suggestion;

11. Are informed that, in the case of a Medicaid beneficiary, the determination of eligibility to receive services is not permanent and that redeterminations will be made on the basis of subsequent assessments pursuant to N.J.A.C. 8:87.

i. An acknowledgement of this shall be signed by the parent and retained in the child's permanent record; and

12. Are informed of the availability of regular day care or preschool if the child's condition improves sufficiently to no longer require pediatric medical day care facility services.

(b) The administrator shall provide the child's parent with the name, address and telephone number of the following offices with which complaints may be lodged:

**Division of Health Care Facilities Evaluation and Licensing
New Jersey Department of Health and Senior Services
PO Box 367
Trenton, NJ 08625-0367
Telephone: (800) 792-9770**

**Division of Medical Assistance and Health Services
New Jersey Department of Human Services
PO Box 712
Trenton, NJ 08625-0712
Telephone: (609) 588-3828**

**Division of Youth and Family Services
New Jersey Department of Children and Families
PO Box 717
Trenton, NJ 08625-0717**

Telephone: (609) 292-6920 or (800) 792-8610.

(c) The administrator shall provide the child's parent with the telephone number of the applicable local office of the Division of Youth and Family Services, Child Abuse Control Office.

(d) The telephone numbers in (b) and (c) above, shall be posted in the facility at every public telephone and on all bulletin boards used for posting public notices.

SUBCHAPTER 5. CHILD ASSESSMENT AND INTERDISCIPLINARY PLAN OF CARE

8:43J-5.1 Pre-admission assessment

(a) A facility shall conduct a pre-admission assessment to screen the child for PMDC clinical eligibility pursuant to N.J.A.C. 8:43J-6.1(c), which shall consist of a review of the child's medical records by the facility's nursing director and a home visit by a member of the interdisciplinary team and which shall address the child's:

- 1. Medical history;**
- 2. Developmental status;**
- 3. Nutritional status;**
- 4. Use of assistive devices;**
- 5. Treatment procedures; and**
- 6. Medications.**

(b) Based on the information obtained in the preadmission assessment, the administrator, in consultation with the nursing director and the medical director, shall:

- 1. For a Medicaid beneficiary who, based upon the preadmission assessment, meets the clinical eligibility requirements for PMDC, adhere to the procedure in N.J.A.C. 8:87-3 and either admit the child or deny admission; or**
- 2. For a child whose participation at the facility would be paid from private funds, based upon the preadmission assessment, either admit the**

child if the child is clinically eligible for PMDC, or deny admission if the child is not clinically eligible for PMDC.

(c) A facility shall not admit a child who manifests a degree of behavioral disorder that causes the facility to reasonably believe that the child is a danger to himself or herself or others, or whose behavior would interfere with the health or safety or well-being of other children.

8:43J-5.2 Admission procedure

(a) The administrator or his or her designee shall conduct an interview with the child's parent prior to or at the time of the child's admission that addresses, at a minimum, the matters in (a)1 through 5 below, and shall summarize the interview in the child's medical record:

- 1. An orientation of the facility's policies and services;**
- 2. Hours and days on which services are provided;**
- 3. The fee schedule;**
- 4. The child's rights; and**
- 5. Criteria for attendance, treatment and discharge.**

(b) At the time of admission, the child's parent shall execute a PMDC facility consent form addressing the purpose of PMDC services, family responsibilities, authorized treatment, applicable liability releases and emergency disposition plans.

8:43J-5.3 Initial assessment and initial plan of care

(a) A registered professional nurse shall complete an initial assessment no earlier than five working days prior to, or upon, the day of admission for each child, which shall address, at minimum, the child's personal hygiene, immediate dietary needs, procedures, medications and diagnosis.

(b) A registered professional nurse shall develop a written initial plan of care that is based on the initial assessment within two business days of admission.

(c) The facility shall have a copy of a history taken and a report of a physical examination performed by the child's primary health care provider within 30 days prior to, or upon, admission to the facility.

(d) The facility shall have orders in place from a child's primary health care provider on the day of admission.

(e) The nursing, dietary, social work, developmental, rehabilitation, and/or pharmacy services, as applicable, and in accordance with professional standards of practice, shall execute each primary health care provider's order.

8:43J-5.4 Development and implementation of interdisciplinary plan of care and discharge planning

(a) A registered professional nurse shall develop a written interdisciplinary plan of care within 15 business days of the date of admission, which shall address, at a minimum:

- 1. The child's scheduled days of attendance;**
- 2. The specific goals of care;**
- 3. The time frames for achieving the goals and the schedule for evaluation of progress;**
- 4. The interventions needed to accommodate the medical, nursing, psychosocial and educational needs of the child and family;**
- 5. The child's needs and preferences as identified by the child's parent;**
- 6. The orders for treatment, services, medications and diet;**
- 7. The time intervals at which the facility shall review the child's response to treatment; and**
- 8. Specific discharge criteria.**

(b) In developing the written interdisciplinary plan of care the registered professional nurse shall base the written interdisciplinary plan of care on the assessments provided by nursing, dietary, child life specialist and social work staff, and, if ordered by the child's primary health care provider, other health professionals.

(c) The interdisciplinary plan of care shall contain measurable objectives with interventions based on the child's care needs and means of achieving each goal and shall address, as appropriate, rehabilitative and/or restorative measures, preventive intervention and training and teaching of personal care.

(d) The interdisciplinary plan of care shall contain discharge planning that takes into account the child's changing clinical and/or financial status as it may affect the child's continued eligibility for PMDC.

1. The facility shall involve, to the fullest extent possible, the child's parent in developing the discharge plan.

(e) The facility's interdisciplinary care team shall review the child's interdisciplinary plan of care at least every 60 days, or more often, if indicated by a change in the child's medical condition.

(f) The implementation of the interdisciplinary plan of care is contingent upon the approval of the child's primary health care provider.

(g) The facility shall give a copy of the interdisciplinary plan of care to the child's parent and shall maintain the parent's signed acknowledgment of receipt thereof in the child's medical record.

SUBCHAPTER 6. GENERAL SERVICES

8:43J-6.1 General services provided

(a) A facility shall provide, in accordance with this chapter, therapeutic, rehabilitative and developmental services to children for a minimum of six consecutive hours per day, each day the facility is open, exclusive of the transportation time referred to in N.J.A.C. 8:43J-16.1.

(b) Facilities shall comply with the requirements at N.J.A.C. 10:122, the Manual of Requirements for Child Care Centers.

1. Where the provisions of this chapter differ from those of N.J.A.C. 10:122, the requirements of this chapter shall govern.

(c) Regardless of the payer source, children attending pediatric medical day care shall be technology-dependent or medically complex.

1. For children who are Medicaid beneficiaries, the facility shall comply with N.J.A.C. 8:87.

(d) The facility shall maintain a daily record of child attendance for each day during which services are provided, in accordance with N.J.A.C. 8:87-2.1(a)4.

(e) Each facility shall have a system to ensure that each child's nutritional needs are met, based upon the child's interdisciplinary plan of care.

(f) A facility shall plan and implement a diversified program of activities for the child, based upon the child's interdisciplinary plan of care.

8:43J-6.2 General staffing requirements

(a) Only direct care staff members, excluding volunteers, of a facility shall count towards the staffing level.

(b) All facilities shall have, in addition to the nursing director, a minimum of two registered professional nurses on site at all times when children are present.

(c) The facility shall maintain a staffing ratio of one direct care staff member for every three children in attendance.

(d) As part of the staffing ratio in (c), the facility shall also maintain a ratio of one licensed nurse for every six children in attendance.

(e) The nursing director shall increase the number of licensed nurses providing direct care when necessary based on the medical needs of the children being served.

(f) Transportation staff shall not count as direct care staff for purposes of satisfying the staffing ratio, except during any hours that they spend in the facility providing direct care to the children.

1. The time spent driving children to or from a facility shall not count as direct care staff hours.

(g) All direct care staff shall:

1. Have had pediatric care experience or shall receive training from the facility in the care, growth and development of children with special needs; and

2. Receive ongoing training from the facility regarding children with special needs.

(h) All direct care staff shall have current certification in pediatric cardio-pulmonary resuscitation (CPR) and the use of an automatic external defibrillator (AED).

(i) At all times when children are present in the facility, at least one staff member shall be on-site who:

1. Is certified by the American Heart Association in pediatric advanced life support;

2. Is certified by the American Academy of Pediatrics or American College of Emergency Physicians in advanced pediatric life support; or

3. Has completed the emergency nursing pediatric course offered by the Emergency Nurses Association.

8:43J-6.3 Personnel

(a) The facility shall make reasonable efforts to ensure that all staff providing direct care to children in the facility are in good health and are concerned for the safety and well-being of children;

1. A staff member who has been fingerprinted and is awaiting the results of the criminal background investigation may begin employment, as long as the staff member is not left unsupervised with children.

i. A staff member awaiting the results of a criminal background investigation shall not count toward a facility's staffing level.

(b) The facility shall develop written job descriptions and ensure that personnel are assigned duties based upon their education, training and competencies and in accordance with their job descriptions.

(c) The facility shall ensure that all personnel who require licensure, certification or authorization to provide care to children shall hold current licensure, certification or authorization, in good standing, under the appropriate laws or rules of the State of New Jersey.

(d) The facility shall maintain written staffing schedules that the facility shall implement in a manner that ensures continuity of care.

(e) The facility shall develop and implement a staff orientation plan and a staff training and education plan, including plans for each service and designation of person(s) responsible for providing ongoing training.

1. All staff shall receive orientation at the time of employment and a monthly ongoing in-service training that addresses, at a minimum, emergency plans and procedures, infection prevention and control, child rights and identification of child abuse.

i. The facility shall document the orientation and ongoing in-service training of all staff.

(f) Facilities shall maintain employee health records for each employee in a confidential manner and separate from personnel records and shall ensure that the records contain documentation of the performance and the results of all required medical screening tests.

(g) The facility shall develop personnel policies and procedures that identify the minimum content of an employee's personnel file and that require each employee's personnel file to contain, at a minimum, an employee's:

1. Current licensure information as applicable;

2. Position description;

3. Clearance from the Department's Criminal Background Investigation Unit; and

4. The applicable policies for the performance of overtime, compensatory time, performance evaluations and termination of employment.

SUBCHAPTER 7. NURSING SERVICES

8:43J-7.1 Designation of nursing director

(a) A facility shall designate in writing a nursing director, who shall be a registered professional nurse who meets the criteria at N.J.A.C. 8:43J-7.2.

1. The facility shall designate in writing a registered professional nurse to act in the event of the nursing director's absence.

(b) The nursing director shall be a full-time employee of the facility and on duty at all times when children are present in the facility.

(c) The nursing director shall not perform the functions of any other position and shall not count toward the facility's staffing level while functioning as the nursing director.

1. A registered professional nurse acting in the nursing director's absence shall not perform the functions of any other position and shall not count toward the facility's staffing level while functioning as the nursing director.

8:43J-7.2 Qualifications of nursing director

(a) The nursing director shall be a registered professional nurse who, in the five years prior to being named nursing director, has had:

1. At least three years of full-time pediatric nursing experience, of which at least one of those years shall have been in:

- i. A pediatric intensive care unit;**
- ii. A neonatal intensive care unit;**
- iii. A pediatric nursing home;**
- iv. Pediatric home care; or**
- v. A pediatric medical day care facility; and**

2. One year of full-time experience in nursing supervision and/or administration in a licensed health care facility.

8:43J-7.3 Responsibilities of the nursing director

(a) The nursing director shall be responsible for:

1. The supervision of all nursing staff and unlicensed assistive personnel;

2. The direction, provision and quality of nursing services provided to children;

**3. Overseeing the pre-admission and discharge planning processes;
and**

4. Overseeing the development of the interdisciplinary plan of care.

(b) The nursing director shall maintain contact with each child's primary health care provider at least every 60 days and more often, as needed, and shall document the contact in the child's medical record.

(c) The nursing director shall develop and implement written objectives, standards of practice, policies and procedures and an organizational plan for the nursing service.

1. The written policies and procedures shall address, at a minimum, the following:

i. The assessment of the child's health service needs;

ii. Monitoring the child's condition on a continuing basis;

iii. The notification of the administrator if there is a significant change in the child's condition;

iv. The assessment of the child's need for referral to the child's primary health care provider; and

v. The maintenance of records as required by the facility.

8:43J-7.4 Qualifications of nursing staff

Registered professional nurses and licensed practical nurses shall have at least one year of full-time pediatric experience working with medically complex children.

8:43J-7.5 Provision of nursing services

(a) The facility shall provide nursing services to children directly in the facility.

(b) A registered professional nurse shall be responsible for, at a minimum, the following:

1. Maintaining the standards of nursing practice including, but not limited to:

- i. Monitoring of identified medical conditions;**
 - ii. Administering and/or supervising the administration of prescribed medications and treatments;**
 - iii. Coordinating rehabilitative services;**
 - iv. Monitoring clinical behavior and nutritional status;**
 - v. Monitoring growth and development;**
 - vi. Implementing infection control procedures;**
 - vii. Conducting daily checks to assure that a child's parent is maintaining the child's personal hygiene and administering medications as prescribed; and**
 - viii. Communicating findings to a child's primary health care provider;**
- 2. Managing medical emergencies;**
- 3. Documenting the nursing services provided to a child, including the initial assessment and evaluation of the child's health care needs, development of the nursing component of the interdisciplinary plan of care, coordinating the development of the interdisciplinary plan of care, evaluation of the child's progress in reaching established goals and defining the effectiveness of the nursing component of the individualized interdisciplinary plan of care;**
- 4. Alerting the nursing director about changes in the child's medical status, the beneficial or untoward effects of therapeutic action and the need to change the individualized interdisciplinary plan of care in response to any changes;**
- 5. Coordinating the services provided by other staff to meet the mutually identified health care and psychosocial needs of each child;**
- 6. Providing health education to a child's parent;**

7. Serving as an advocate to assist the child's parent to resolve problems;

8. Participating in interdisciplinary staff meetings regarding the child's progress; and

9. Instructing the child's parent how to implement provisions of the care plan required in the home that are appropriate for the child's parent to perform.

(c) Each nurse shall serve as a resource person and health educator to the child's parent, the facility administrator and the facility staff.

8:43J-7.6 Responsibilities of licensed nursing personnel

A registered professional nurse may delegate, in accordance with N.J.A.C. 13:37, selected nursing tasks in the implementation of the nursing regimen to licensed practical nurses and unlicensed assistive personnel.

SUBCHAPTER 8. MEDICAL SERVICES

8:43J-8.1 Provision of medical services

(a) Medical services shall be provided as follows:

1. The facility's medical director, with the administrator, shall establish written medical and administrative policies governing the provision of medical services to the children, which shall address, at a minimum:

- i. Emergency procedures; and**
- ii. Standing orders;**

2. The facility shall maintain an individual medical record for each child;

3. All medical services shall be coordinated through the child's primary health care provider; and

4. A child's primary health care provider shall provide medical orders for a child's treatment, which shall address, at a minimum:

- i. Medication;**

ii. Diet;

iii. Permitted activities;

iv. Therapies, such as physical therapy, occupational therapy and speech-language pathology services; and

v. Other services, as necessary.

8:43J-8.2 Designation of a medical director

A facility shall designate a physician who is board-certified in pediatrics to serve as the facility's medical director.

8:43J-8.3 Medical director's responsibilities

(a) The medical director shall be responsible for, at a minimum, the following:

1. Assisting the facility in developing written objectives, policies, a procedure manual, an organizational plan and a quality improvement program for the medical service;

2. Serving as a liaison between the facility and the child's primary health care provider to facilitate compliance with the facility's policies and procedures; and

3. Reviewing the facility's written medical policies in cooperation with a child's primary health care provider for providing care to the child.

(b) The medical director and the administrator shall ensure compliance with N.J.S.A. 45:9-22.5.

8:43J-8.4 Role of primary health care providers

(a) The facility shall ensure that the parent identifies a primary health care provider for each child, who can be contacted when necessary, such as in a medical emergency, and who maintains responsibility for the overall medical therapeutic plan and is available for consultation and collaboration with the pediatric medical day care facility's medical and nursing directors and/or other staff, as appropriate.

(b) The facility shall obtain the following from the child's primary health care provider:

1. A completed Universal Child Health Record form, CH-14, which is available on the Department's forms webpage at <http://www.nj.gov/health/forms/ch-14.pdf> or by telephoning the Division of Family Health Services of the Department at (609) 292-5666, including the immunization record, which has been signed and dated within 30 days of admission;

2. Orders written within the last 60 days for the specific type and intensity of care that is to be provided, which orders are to be signed and dated by the child's primary health care provider;

3. Specification of the degree of child mobility and specification of any assistive devices that the child requires; and

4. Verification at the time of the pre-admission physical examination that the child is free of acute infectious disease.

(c) The facility shall have a mechanism to ensure that the child's primary health care provider reviews and approves the child's interdisciplinary plan of care.

8:43J-8.5 Medical equipment

(a) The medical director shall determine the quantity and types of pediatric medical equipment and supplies that the facility is to have on hand to meet the needs of the children.

(b) The facility shall maintain, on hand, in operable condition, safely store when not in use and make available as needed, emergency equipment suitable for pediatric use, including but not limited to:

- 1. Oxygen;**
- 2. Suction machine;**
- 3. Ambu bag;**
- 4. Airway;**
- 5. An automatic external defibrillator.**

(c) The administrator shall ensure that the facility has on hand the pediatric medical equipment and supplies specified in (a) and (b) above, as

well as any specific items required for individual children prescribed by the primary health care provider.

8:43J-8.6 Agreement with emergency medical providers

The facility shall have a current written agreement with local pre-hospital emergency medical providers, at both the basic and advanced life support levels.

8:43J-8.7 Medical emergencies

(a) A facility's medical policies shall address procedures to be followed by staff in the event of a medical emergency.

(b) Each facility shall ensure that staff are trained in the use of emergency equipment.

(c) Each child shall have an emergency plan developed by the child's primary care provider, which addresses the content of the Emergency Information Form for Children with Special Needs developed by the American Academy of Pediatrics, incorporated herein by reference, as amended and supplemented, available at <http://www.aap.org/advocacy/blankform.pdf>.

1. As appropriate, a child's medical record shall contain standing orders from each child's primary health care provider for the use of emergency medications, which orders shall conform to the rules of the New Jersey Board of Medical Examiners, the New Jersey Board of Nursing and a facility's medical policies.

(d) A facility shall have copies of the following reference sources on site:

1. "Childhood Emergencies in the Office, Hospital, and Community" (2000), as amended and supplemented, also known as "The Blue Book," published by The American Academy of Pediatrics; and

2. "The American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care" (2005), as amended and supplemented.

SUBCHAPTER 9. PHARMACEUTICAL SERVICES

8:43J-9.1 Designation and responsibilities of consultant pharmacist

(a) The facility shall designate a consultant pharmacist.

(b) The designated consultant pharmacist shall be responsible, in accordance with N.J.A.C. 13:39, for the following:

1. Establishing written policies and procedures to ensure the safe use, labeling, storage, integrity, administration, control and accountability of all medications stored or administered by the facility;

2. Reviewing the records of all children in the facility at least once every 60 days to assure that the medication records are accurate and up-to-date and indicate that medications are administered in accordance with the orders of the child's primary health care provider;

3. Reviewing a child's records at least every 60 days to assure that the facility is monitoring a child's medication regimens, laboratory tests, special dietary requirements and foods or natural or herbal medicines used and/or administered concomitantly with other medications to the same child for potential adverse reaction, allergies, medication interaction, contraindications, rationality, medication evaluation and test modification; and that the facility documents irregularities and/or changes the consultant pharmacist recommends in the child's record and reports these irregularities and/or recommended changes to the nursing director and the child's primary health care provider; and

4. Providing and documenting in-service training and consulting with facility staff to assure pharmaceutical and utilization compliance.

8:43J-9.2 Medication administration policies and procedures

(a) Registered professional nurses shall accurately administer medications and shall ensure that the right medication is administered to the right child in the right dose through the right route of administration at the right time only upon a written order from the child's primary health care provider, except that verbal or telephone medication orders may be taken if:

1. The facility has defined in the facility's policies and procedures when verbal or telephone orders may be accepted by a registered professional nurse acting within his or her authorized scope of practice who shall write the order into the child's medical record; and

2. The facility ensures that, within 72 hours, the order is:

- i. Countersigned by the prescriber; or**
 - ii. Documented by the original written order or a plain-paper (non-thermal paper) faxed copy.**
- (b) The facility shall establish a system of medication administration, which includes:**
- 1. Removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container);**
 - 2. Verifying it with the prescriber's orders;**
 - 3. Giving the individual dose to the child;**
 - 4. Observing that the medication is taken; and**
 - 5. Recording the required information, including the method of administration.**
- (c) The facility shall establish a system to accurately identify a child before any medication is administered.**
- (d) Medication errors and adverse reactions shall be reported immediately upon discovery to the nursing director.**
- 1. The nursing director shall:**
 - i. Immediately notify the child's primary health care provider of the medication error or adverse reaction;**
 - ii. Enter a description of the medication error or adverse reaction into the child's medical record;**
 - iii. Notify the child's parent; and**
 - iv. If the event was a medication error that originated in the pharmacy, notify the pharmacy.**

8:43J-9.3 Pharmacy reporting policies and procedures

- (a) The consultant pharmacist shall report any irregularities to the nursing director, who shall:**

1. Report the irregularity to the administrator and the child's primary health care provider; and

2. Act on the report.

(b) A registered professional nurse shall document a child's medication allergies in the child's medical record and on its outside front cover.

(c) The administrator shall notify the Drug Control Division, New Jersey Department of Law and Public Safety of any theft or unexplained loss of any controlled substances, syringes, and/or needles within 48 hours of discovery of such loss or theft.

8:43J-9.4 Pharmacy control policies and procedures

(a) All prescription medication shall be supplied to the facility by the child's parent, in the original, labeled containers.

(b) Each child's individual medication container or package shall be labeled in accordance with N.J.A.C. 13:39-5.9.

(c) The facility may keep over-the counter (OTC) medications as stock, as approved by the pharmacy consultant who is to monitor the OTC medications for accountability.

1. OTC medications labels are to include the medication name, strength, manufacturer's name, lot number, expiration date, recommended dosage for OTC use (if repackaged), and applicable cautionary and/or accessory labeling.

(d) The facility shall store all medications in a locked cabinet, located in or convenient to the nurse's station or center.

(e) The facility shall keep Schedule II controlled substances in separately locked, securely fixed boxes or drawers in the locked medication cabinet, that is, under two locks.

(f) The facility shall store medications intended for external use separately from other medications.

(g) The facility shall keep medications requiring refrigeration in a locked box in the refrigerator and separate from food.

SUBCHAPTER 10. DIETARY SERVICES

8:43J-10.1 General requirements for dietary services

(a) Dietary services shall be under the direction of a dietitian who meets the requirements in N.J.A.C. 8:43J-10.2.

(b) The dietitian shall assess the nutritional status and dietary needs of each child as part of the interdisciplinary plan of care and every 60 days thereafter, or more often, if medically necessary.

1. The assessment shall address the presence of:

i. Food allergies;

ii. Metabolic disorders; and

iii. Any special needs related to feeding.

2. The dietitian shall document the results of each assessment in the child's medical record.

(c) Unless dictated otherwise by the child's interdisciplinary plan of care, the facility shall provide a minimum of one meal per day, as well as nutritionally appropriate snacks.

(d) The facility shall provide special diets and supplemental feedings when ordered by the child's primary health care provider.

(e) The facility shall not accept food provided by the child's parent, unless medically indicated and a current, signed agreement exists between the facility and the child's parent addressing the provision of food from sources other than the facility.

(f) The facility shall serve all food and formula under the supervision of the nursing director.

(g) The dietary service shall comply with N.J.A.C. 8:24.

(h) The facility shall make available a current diet manual to personnel in the facility and, if applicable, to the off-site food provider.

(i) The facility shall ensure that meals are planned, prepared and served in accordance with, but not limited to, the following:

1. Menus shall be prepared with regard for the nutritional and therapeutic needs, cultural backgrounds, food habits and personal food preferences of a child and his or her parent;

2. Written, dated menus shall be planned at least 14 days in advance for all diets.

i. The same menu shall not be used more than once in any continuous seven-day period;

3. Current menus with portion sizes and any changes in menus shall be posted in the food preparation and/or serving area and kept, with changes, on file in the dietary service for at least 30 days;

4. Diets served shall be consistent with the diet manual and shall be served in accordance with physicians' orders;

5. Food shall be prepared by cutting, chopping, grinding, or blending to meet the needs of each child;

6. Nutrients and calories shall be provided for each child, as ordered by a physician, based upon Recommended Dietary Allowances, 10th Edition (1989), incorporated herein by reference, as amended and supplemented, Food and Nutrition Board of the National Academy of Sciences, Commission on Life Sciences, National Research Council, adjusted for age, sex, weight, physical activity, and therapeutic needs of the child;

7. Designated staff shall observe meals refused and/or missed and shall document the name of the child and the meal refused and/or missed;

8. Designated staff shall provide assistance with eating, when necessary;

9. The facility shall provide self-help feeding devices;

10. All meals shall be attractive when served to children;

11. The facility shall maintain a record in the serving area for each child, identifying the child by name, and including diet order, known allergies and other information, such as meal patterns when on a calculated diet;

12. The facility shall ensure that all food served is stored and prepared in accordance with acceptable professional standards and at appropriate temperatures; and

13. The facility shall provide a speech-language pathologist to evaluate and monitor a child's ability to chew and swallow food when ordered by the child's primary health care provider.

(j) If food is prepared off-site, the facility shall have a system to inform the caterer each day of the number and types of meals required and any substitutions;

1. Minimum supplies of food (for example, cereal, peanut butter, tuna, canned fruits and vegetables and juices) shall be maintained in facilities with an off-site food preparation system so that simple meals can be prepared in the event there are last-minute requests or emergency situations.

8:43J-10.2 Qualifications of the dietitian

The dietitian shall be a registered dietitian.

8:43J-10.3 Qualifications of the food service supervisor

(a) The food service supervisor shall:

1. Be a dietitian;

2. Be a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association; or

3. Be a graduate of a New Jersey State-approved course in food service management and have at least one year of full-time, or full-time equivalent, experience as a food service supervisor in a licensed health care facility.

8:43J-10.4 Administrator's responsibilities for dietary services

(a) If meals are prepared in the facility, the administrator shall designate a food service supervisor who shall be present in the facility during food preparation and service.

1. If the food service supervisor is not a dietitian, then:

i. The food service supervisor shall have scheduled consultations with a dietitian; and

ii. The administrator shall designate a consultant dietitian who shall review the dietary services at a minimum, every 60 days, make recommendations, assess the nutritional needs of the children and provide nutritional counseling.

(b) If meals are prepared off-site or catered, the administrator shall be responsible for the direction, provision, and quality of the dietary services.

1. The administrator shall appoint a consultant dietitian who shall review the dietary services on a regularly scheduled basis, make recommendations, assess the nutritional needs of each child and provide nutritional counseling.

2. If the off-site catering service does not employ a food service supervisor who is qualified in accordance with N.J.A.C. 8:43J-10.2, the administrator shall specify the facility's needs, assess the quality of the services, and ensure that the services conform to the standards of this chapter.

3. If the off-site catering service employs a food service supervisor who is qualified in accordance with N.J.A.C. 8:43J-10.3, the administrator shall verify the credentials of the food service supervisor.

SUBCHAPTER 11. DEVELOPMENTAL AND REHABILITATION SERVICES

8:43J-11.1 Developmental services

(a) A facility shall employ full-time a child life specialist.

(b) A facility shall have each child assessed by a child life specialist to determine the child's present performance level in the following developmental domains:

- 1. Gross motor;**
- 2. Fine motor;**
- 3. Cognitive; and**
- 4. Social.**

(c) The child life specialist, in consultation with the rehabilitation specialist, shall make recommendations for developmentally appropriate activities and measurable goals in each developmental domain, which shall be included in the child's interdisciplinary plan of care and provided on-site.

(d) The child life specialist shall participate in regularly scheduled interdisciplinary staff meetings.

(e) The facility shall provide a program for parents to assist them in meeting the medical, developmental and psychosocial needs of their child at home.

1. To ensure continuity of care, the child's parent shall be included in care-related conferences.

8:43J-11.2 Rehabilitation services

(a) The facility shall provide rehabilitation services on-site to those children whose need for these services has been documented in the child's interdisciplinary plan of care and ordered by the child's primary health care provider.

(b) The facility shall provide a speech-language pathology, physical therapy and/or occupational therapy evaluation when ordered by the child's primary health care provider.

1. The facility shall transmit a report of evaluations and recommendations to the child's primary health care provider and a copy shall remain a part of the child's medical record.

(c) The orders of a child's primary health care provider for physical and occupational therapy and speech-language pathology services shall be specific as to goals and the frequency of treatment and shall be incorporated into the child's interdisciplinary plan of care.

(d) Written progress notes on each therapy session shall be maintained by the therapists as part of the child's medical record.

(e) Physical therapists, occupational therapists and speech-language pathologists shall collaborate with nursing personnel and the certified child life specialists to integrate therapeutic interventions in daily activities, as appropriate.

(f) To the extent possible, a child's therapist(s) shall participate in the interdisciplinary review of the child's interdisciplinary plan of care.

1. The updated recommendations of the therapist(s) shall be incorporated in the child's interdisciplinary plan of care.

8:43J-11.3 Rehabilitation supplies and equipment

(a) When clinically indicated, the facility shall provide visual privacy and provisions for auditory privacy for children during evaluation and rehabilitation treatment.

(b) The facility shall ensure that the following therapy equipment, in a quantity appropriate to meet the needs of the children present, is available:

- 1. Inflatable mattress with air compressor;**
- 2. Therapy rolls and half-rolls of varying sizes;**
- 3. Nesting benches of varying heights;**
- 4. A wooden weighted push cart;**
- 5. A toddler's swing;**
- 6. A floor mirror;**
- 7. Therapy balls of varying sizes;**
- 8. Steps;**
- 9. Climbing equipment; and**
- 10. Other medically indicated equipment.**

SUBCHAPTER 12. SOCIAL WORK SERVICES

8:43J-12.1 Qualifications of social workers

(a) All social workers shall:

1. Be licensed or certified by the New Jersey State Board of Social Work Examiners, pursuant to N.J.S.A. 45:15BB-1 et seq.; and

2. Have at least one-year of experience in providing social work services for children.

8:43J-12.2 Provision of social work services

(a) The facility shall arrange for the provision of social work services to children and their parents who require them, in accordance with N.J.S.A. 45:15BB-1 et seq. and N.J.A.C. 13:44G.

(b) Social workers shall provide at least the following social services:

- 1. Interviewing the child's parent to obtain a social assessment and evaluation of needs and problems;**
- 2. Providing, or arranging for the provision of individual, family and group counseling that addresses the psychological, social, financial, legal and educational needs of the child and where appropriate, the child's parent;**
- 3. Assisting with obtaining social work services;**
- 4. Referring the children and their parent to and/or developing support groups and educational programs;**
- 5. Arranging and/or providing crisis intervention;**
- 6. Coordinating the child's interdisciplinary plan of care with other community resources;**
- 7. Providing in-service training to staff that addresses the psychosocial needs of the child, and the child's parent;**
- 8. Participating in the facility's quality improvement program;**
- 9. Participating in the child's pre- and post-admission case conferences;**
- 10. Documenting assessments, treatment plans, evaluations and clinical notes; and**
- 11. Coordinating discharge planning for the child, which shall include providing the child's parent information and assistance in accessing necessary and appropriate community services.**

(c) A social worker shall provide social work services in the facility for at least 30 minutes per week per child equivalent, calculated on the basis of the daily census.

SUBCHAPTER 13. PHYSICAL PLANT REQUIREMENTS

8:43J-13.1 Physical plant

(a) Construction standards for new buildings and alterations, renovations and additions to existing buildings for freestanding pediatric medical day care facilities shall comply with N.J.A.C. 5:23-3.2 and 7 (the Barrier-Free Subcode) of the New Jersey Uniform Construction Code and N.J.A.C. 5:70, the New Jersey Uniform Fire Code.

(b) The facility shall have all direct care services located on one floor.

(c) Prior to any construction, the facility shall submit plans for review to the New Jersey Department of Community Affairs, Health Care Plan Review Services Unit for which the telephone number is (609) 633-8151.

(d) The facility shall install fire extinguishers in compliance with N.J.A.C. 5:70:

1. Fire extinguishers shall be examined at least annually and maintained in accordance with manufacturers' standards; and

2. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

(e) The facility shall install smoke detectors in compliance with N.J.A.C. 5:70.

(f) An emergency generator, capable of powering medical equipment for a period of at least two hours, shall be available and on-site or to be provided through an agreement with a local pre-hospital emergency provider.

(g) The Department shall not require facilities as to which the Department and the Department of Community Affairs have approved the physical plant under rules enacted prior to (the effective date of this chapter), to upgrade their physical plants to meet the requirements of this subchapter, unless and until a facility renovates or constructs additions to the existing physical plant.

(h) Each facility shall have a signed agreement with its utility provider stating that the utility provider will notify the facility in the event that there will be a disruption in service.

(i) Each facility shall notify the local fire department and emergency services unit that the facility is operating at its location.

8:43J-13.2 Functional service areas

(a) Each pediatric medical day care facility shall provide the following functional service areas on-site:

- 1. Administration services as required at N.J.A.C. 8:43J-3.4;**
- 2. An employees' lounge as required at N.J.A.C. 8:43J-13.5;**
- 3. Housekeeping services as required at N.J.A.C. 8:43J-13.6;**
- 4. Social work services as required at N.J.A.C. 8:43J-13.7;**
- 5. Child care areas as required at N.J.A.C. 8:43J-13.8;**
- 6. Nursing services as required at N.J.A.C. 8:43J-13.11;**
- 7. Pharmaceutical services as required at N.J.A.C. 8:43J-13.11;**
- 8. An examination room or private treatment space as required at N.J.A.C. 8:43J-13.11;**
- 9. Dietary services as required at N.J.A.C. 8:43J-13.12;**
- 10. Physical therapy services as required at N.J.A.C. 8:43J-13.13;**
- 11. Speech-language pathology services as required at N.J.A.C. 8:43J-13.14;**
- 12. Laundry services as required at N.J.A.C. 8:43J-13.15; and**
- 13. An outdoor play area as required at N.J.A.C. 8:43J-13.10.**

8:43J-13.3 Toilet facilities

(a) Barrier-free toilet facilities shall be provided to meet the needs of the children, staff and visitors.

(b) Facilities shall have at least:

1. One toilet and one sink, of proper size and height for the use of children, for every 10 children;

2. Two adult, singular, unisex toilet rooms, one of which is to be barrier-free, for the use of visitors, volunteers and staff; and

3. Two diaper changing areas that are:

i. Separate from the toilet facilities;

ii. Located within five feet of a handwashing sink; and

iii. Privacy-screened.

8:43J-13.4 Administration areas

(a) The main entrance of the facility shall have a lobby and/or reception area, which shall contain space for:

1. Waiting for several persons; and

2. Wheelchair storage.

(b) The lobby and/or reception area shall be separated from any area used by children by a secure door.

(c) An office shall be provided for the administrator that may be shared with other staff and that shall be used for conducting private interviews.

(d) The facility shall conduct interviews related to credit and admission in a private area.

(e) The facility shall provide general or individual office(s) for business transactions, clerical work, filing, records, administrative and professional staff.

(f) The facility shall provide general storage facilities for supplies and equipment as needed for continuing operation.

8:43J-13.5 Employees' lounge

(a) The facility shall provide an employees' lounge for employees and volunteers.

1. The employees' lounge shall contain secure storage space, such as lockers, for the use of employees and volunteers.

8:43J-13.6 Housekeeping services area

(a) The facility shall provide a janitor's closet that contains a service sink and storage for housekeeping supplies and equipment.

(b) The facility shall ensure that the door to the janitor's closet is kept locked when not in use.

8:43J-13.7 Social work services area

(a) The facility shall provide office space for the social worker staff to conduct private interviewing and counseling.

(b) The facility shall provide a secure record storage area for the social worker staff.

8:43J-13.8 Child care areas

(a) Child care areas shall consist of an area for:

1. Ambulatory children, which may also be used by non-ambulatory children whose medical condition permits integration;

2. Toddlers; and

3. Non-ambulatory children whose medical condition precludes integration with ambulatory children or toddlers;

(b) Child care areas shall have two means of egress.

(c) Child care areas shall have a minimum of 35 square feet per child for activities and dining.

(d) The facility shall provide storage space for recreational equipment, cribs, mats and supplies.

8:43J-13.9 Cribs and mats

(a) The facility shall provide at least one crib or sleeping mat for each child in the program.

1. When in use, there shall be a minimum of three feet between cribs and/or sleeping mats.

(b) A crib is to be provided for each child under the age of one year, and for older children, as appropriate.

1. Stackable cribs are not permitted.

8:43J-13.10 Outdoor play area

(a) Each facility shall have an outdoor play area that can be used when weather permits.

(b) The appropriate staff-to-child ratio shall be maintained in the outdoor play area when the outdoor play area is in use.

(c) The outdoor play area shall comply with N.J.A.C. 5:23-11.

8:43J-13.11 Nursing services, pharmaceutical services and examination room or private treatment space

(a) The facility shall provide an office for nursing staff that has a minimum of 100 square feet.

(b) If the nurse's office will also serve as the pharmaceutical area, then the facility shall provide a minimum of 120 square feet of space for the combined use area.

(c) The facility shall provide the following for pharmaceutical services:

1. A dispensing area with a sink for handwashing;

2. A locked storage cart or locked cabinets; and

3. A separate lockable refrigerator or a locked box within a refrigerator for storage of medications.

(d) The facility shall provide a storage area for equipment and supplies.

(e) The facility shall provide an examination room or private treatment space that has a minimum floor area of 80 square feet, including an area for the storage of child charts, a sink for handwashing and a counter or shelf space for writing.

(f) If a facility combines the nursing office, pharmacy space and examination room, then the facility shall provide a minimum of 150 square feet for the combined use area.

8:43J-13.12 Dietary service area

(a) The construction, equipment and installation of food service facilities shall meet the requirements of the functional program.

(b) Services shall consist of an on-site conventional food preparation system, a convenience food service system, a catering service or an appropriate combination thereof.

(c) The facility shall provide the following to implement the food service selected:

1. If food is prepared on-site:

i. A conventional food preparation system with space and equipment for preparing, cooking, baking and serving meals; or

ii. A convenience food system, such as frozen prepared meals, bulk packaged entrees, individually packaged portions and contractual commissary services with space and equipment for thawing, portioning, cooking and/or baking; or

2. If food is prepared off-site and catered:

i. A control station for receiving food supplies.

(d) All facilities shall have the following:

1. Storage facilities for food supply, including cold storage items;

2. Handwashing sink(s) that are located in the food preparation area;

3. Warewashing space that is located in the kitchen or an alcove separate from the food preparation and serving area;

4. Waste storage facility(ies) that are located in a separate room easily accessible to the outside for direct waste pickup or disposal; and

5. Office or desk space for the dietitian or the food service manager.

(e) The provision of nutritional counseling shall occur in the dietitian's office or in a conference room, based on program requirements.

8:43J-13.13 Physical therapy service area

(a) The facility shall provide:

1. A designated area for the provision of physical therapy with a sink for handwashing.

i. The area may be within the child care areas;

2. Desk space for physical therapy staff; and

3. Storage space for physical therapy supplies and equipment.

8:43J-13.14 Speech-language pathology services area

(a) The facility shall provide:

1. A designated area for the provision of speech-language pathology services.

i. The area may be within the child care areas;

2. Desk space for therapy staff; and

3. Storage space for speech-language pathology supplies and equipment.

8:43J-13.15 Laundry service area

(a) If the facility provides laundry services on-site, the following areas shall be provided:

1. A laundry processing room;

2. Separate, clearly identified covered waste containers for soiled linens and/or soiled disposables in a designated area away from child activities and dining areas;

3. Storage for laundry supplies; and

4. A clean linen or disposables storage, issuing and holding room or area.

(b) If linen is processed off-site, the facility shall provide the following areas:

1. A receptacle for holding soiled linen; and

2. A clean linen and/or disposables receiving, holding, inspection, issuing and storage room(s) or area(s).

8:43J-13.16 Emergency plans and procedures

(a) The facility shall develop written emergency plans, policies and procedures to be followed in case of medical emergency, equipment breakdown, fire and other disasters, that address, at a minimum, the following:

1. Persons to be notified;

2. Process of notification and verification of notification;

3. Locations of emergency equipment and alarm signals;

4. Evacuation routes;

5. Procedures for evacuating children;

6. Procedures for reentry and recovery;

7. Frequency of fire drills; and

8. Tasks and responsibilities assigned to all personnel.

(b) The facility shall post emergency plans, including a written evacuation diagram specific to the unit that includes evacuation procedure, location of fire exits, alarm boxes and fire extinguishers and all emergency procedures in conspicuous locations throughout the facility.

(c) The facility shall train all employees as part of their initial orientation and at least annually thereafter in:

1. The procedures to be followed in the event of a fire, including evacuation; and

2. The instructions for the use of fire-fighting equipment.

(d) In the event that the facility is unable to provide services to children as scheduled due to the occurrence of an emergency, the facility shall immediately notify the children's parent of the change in schedule.

(e) The facility shall conduct drills of emergency plans at least four times a year and shall document the following in regard to each drill:

1. Date and hour;

2. Type;

3. Participating staff; and

4. Signature of the person in charge.

(f) Of the four drills, at least one drill shall address separately each of the following:

1. Fire; and

2. Emergencies due to another type of disaster, such as storm, flood, other natural disaster, bomb threat or nuclear accident.

(g) All staff shall participate in at least one drill annually and children may take part in drills.

SUBCHAPTER 14. MEDICAL RECORDS

8:43J-14.1 Maintenance of medical records

(a) The facility shall maintain a current, complete medical record for each child.

(b) The facility shall develop and implement written objectives, policies, a procedure manual, an organizational plan and a quality improvement program for medical record services.

(c) The facility shall maintain a record system in which the child's complete medical record is filed as one unit in one location within the facility.

(d) The facility shall protect the medical record from loss, destruction or unauthorized use.

(e) The facility shall retain medical records in accordance with N.J.S.A. 26:8-5.

8:43J-14.2 Assignment of responsibility

The facility shall assign responsibility for the medical record service to a full-time employee who, if not a medical record practitioner, functions in consultation with a person so qualified.

8:43J-14.3 Contents of medical records

(a) The child's complete medical record shall include, but not be limited to, the following:

1. Child identification data, including:

- i. Name;**
- ii. Date of admission;**
- iii. Address;**
- iv. Date of birth;**
- v. Race;**
- vi. Religion (if parent elects to provide);**
- vii. Sex;**
- viii. Referral source;**
- ix. Payment plan;**

- x. Travel directions to the child's home;**
- xi. Name, address and contact telephone number of the child's parent;
and**
- xii. Name, address and contact telephone number of the person(s) to
be notified in an emergency;**
- 2. The parent's signed acknowledgment that the facility has informed
them of, and given them a copy of, the child's rights pursuant to N.J.A.C.
8:43J-4;**
- 3. The preadmission assessment of the child's home environment
pursuant to N.J.A.C. 8:43J-5.1;**
- 4. A summary of the admission interview pursuant to N.J.A.C. 8:43J-
5.2;**
- 5. Documentation of the child's immunization record, medical history
and physical examination, signed and dated by the child's primary health
care provider;**
- 6. The information required pursuant to N.J.A.C. 8:43J-8.4(b);**
- 7. Advance directives and related documentation, as applicable,
pursuant to N.J.A.C. 8:43J-3.5(c);**
- 8. Assessments developed by each service providing care to the
child;**
- 9. Initial and interdisciplinary plans of care;**
- 10. Clinical notes, which shall be entered on the day service is
rendered;**
- 11. Concise, accurate and initialed case notes reflecting progress
toward goal achievement or reasons for lack of progress;**
- 12. A record of medications administered, including the name and
strength of the medication, date and time of administration, dosage
administered, method of administration and legible signature of the person
who administered the medication;**

13. Documentation of allergies and any special precautions to be taken in the medical record and on its outside front cover;

14. Any signed written informed consent forms;

15. All orders for treatment, medication, therapy and diets, signed by the prescriber.

i. Orders for speech-language pathology, physical therapy and occupational therapy services shall include specific modalities and the frequency of treatment;

16. An attendance record listing all of the days on which the child was in the facility;

17. A current photograph of the child;

18. Documentation of Department determination of Medicaid clinical eligibility for PMDC services pursuant to N.J.A.C. 8:87, as applicable; and

19. The discharge summary, in accordance with N.J.S.A. 26:8-5 et seq.

8:43J-14.4 Medical records policies and procedures

(a) All orders for child-care shall be prescribed in writing and signed and dated by the prescriber.

1. All medication orders shall be in compliance with N.J.A.C. 8:43J-9.2.

(b) All entries in the child's medical record shall be written legibly in ink, dated and signed by the recording person or, if a computerized medical records system is used, authenticated.

1. If an identifier, such as a master sign-in sheet is used, initials may be used for signing documentation, in accordance with applicable professional standards of practice.

2. If computer-generated orders with an electronic signature are used, the facility shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of computer-generated signatures.

3. If a telefacsimile communications system is used, entries into the medical record shall be in accordance with the following procedures:

i. The prescriber shall sign the order, history and/or examination at an off-site location;

ii. The order or document shall be transmitted by telefacsimile to the facility for inclusion into the medical record;

iii. The prescriber shall submit the original order or document for inclusion into the medical record within seven days; and

iv. The original order or document shall replace the order or document transmitted by telefacsimile.

(1) If the order or document transmitted by telefacsimile is produced by a plain-paper telefacsimile process that produces a permanent copy, the plain-paper order or document may be used as part of the medical record, as an alternative to replacement of the original order or document.

(c) If a child's parent requests in writing a copy of the child's medical record, the facility shall provide a legible photocopy of the record within 30 days of request at a fee based on actual cost, which shall not exceed prevailing community rates for photocopying.

1. The facility shall establish a policy assuring access to copies of medical records for children whose parents do not have the ability to pay.

2. The facility shall establish a fee policy providing a means for use of abstracts or summaries of medical records, provided the child and/or his or her authorized representative shall have a right to receive a full copy of the medical record.

(d) The facility shall establish policies regarding the specific period of time within which the medical record shall be completed following child discharge and disciplinary action for non-compliance.

(e) The facility shall develop a procedure for the transfer of child information when the child is transferred to another health care facility.

(f) If the facility plans to cease operation, it shall notify the Department in writing, at least 14 days before cessation of operation, of the location at which medical records will be stored and of methods for their retrieval.

SUBCHAPTER 15. INFECTION CONTROL, SANITATION AND HOUSEKEEPING

8:43J-15.1 Administrator's responsibilities for infection control

(a) The administrator shall ensure the development and implementation of an infection prevention and control program.

(b) The administrator shall designate a person who shall be responsible for the direction, provision and quality of infection prevention and control services, and who shall:

1. Have education, training, experience and completed course work in infection control or epidemiology;

2. Be responsible for developing and maintaining written objectives for infection prevention and control services;

3. Be responsible for developing a policy and procedure manual for infection prevention and control services; and

4. Be responsible for developing an organizational plan and a quality improvement program for infection prevention and control services.

8:43J-15.2 Child immunization

Each facility shall ensure that each child is immunized in accordance with N.J.A.C. 8:57.

8:43J-15.3 Infection control policies and procedures

(a) The facility shall develop, implement and review, at least annually, written policies and procedures regarding infection prevention and control that are consistent with the following:

1. Guideline for Hand Hygiene in Health-Care Settings: Recommendation of the Healthcare Infection Control Practices Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force, published in the Morbidity and Mortality Weekly Report at MMWR 2002; 51 (No. RR-16), incorporated herein by reference published by the Coordinating Center for Health Information and Service, available at <http://www.cdc.gov/mmwr/PDF/rr/rr5116.pdf> and at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5116a1.htm>; and

2. The standard precautions for Bloodborne Pathogens at 29 CFR 1910.1030, incorporated herein by reference.

(b) The written infection control policies and procedures of the facility shall include, but not be limited to, policies and procedures for the following:

1. In accordance with N.J.A.C. 8:57, a system for investigating, reporting and evaluating the occurrence of all infections or diseases, which are reportable or conditions which may be related to activities and procedures of the facility and maintaining records for all children or personnel having these infections, diseases or conditions;

2. Exclusion from work, and authorization to return to work, for personnel with communicable diseases;

3. Surveillance techniques to minimize sources and transmission of infection;

4. Techniques to be used during each child contact, including handwashing before and after caring for a child;

5. Protocols for identification of children with communicable diseases and education of children regarding prevention and spread of communicable diseases;

6. The prevention of diaper rash; and

7. Cleaning, sterilization and disinfection practices and techniques to be used in the facility, that address, but are not limited to, the following:

i. Care of utensils, instruments, solutions, dressings, articles and surfaces;

ii. Selection, storage, use and disposition of disposable and nondisposable child care items and the fact that disposable items are not to be reused;

iii. Methods to ensure that sterilized materials are packaged, labeled, processed, transported and stored to maintain sterility and to permit identification of expiration dates; and

iv. Care of urinary catheters, intravenous catheters, respiratory therapy equipment and other devices and equipment that provide a portal of entry for pathogenic microorganisms.

(c) The facility shall use disinfection techniques for all reusable respiratory therapy equipment and instruments that touch mucous membranes consistent with the Centers for Disease Control requirements in the Guideline for Environmental Infection Control in Health-Care Facilities: Recommendation of the CDC Healthcare Infection Control Practices Advisory Committee (HICPAC), 2003, incorporated herein by reference, as amended and supplemented, available at http://www.cdc.gov/ncidod/dhqp/pdf/guidelines/Enviro_guide_03.pdf and manufacturer's specifications.

(d) The facility shall ensure that disinfection procedures for items that come in contact with bed pans, sinks and toilets conform with the Centers for Disease Control requirements in the Guideline for Environmental Infection Control in Health-Care Facilities: Recommendation of the CDC Healthcare Infection Control Practices Advisory Committee (HICPAC), 2003, and manufacturer's specifications.

(e) Personnel who have had contact with a child's excretions, secretions or blood, whether directly or indirectly, in activities, such as performing a physical examination, providing catheter care or changing diapers, shall comply with the handwashing standards at N.J.A.C. 8:43J-15.2(a) immediately after such contact.

(f) The facility shall maintain equipment and supplies used for sterilization, disinfection and decontamination purposes according to manufacturers' specifications.

(g) The facility shall ensure that all needles and syringes are disposed of in compliance with N.J.A.C. 8:43E.

8:43J-15.4 Employee Mantoux testing

(a) Each new employee upon employment shall receive a two-step Mantoux tuberculin skin test with five tuberculin units of purified protein derivative.

1. The only exceptions shall be employees with documented negative two-step Mantoux skin test results (zero to nine millimeters of induration) within the last year, employees with a documented positive Mantoux skin test result (10 or more millimeters of induration), employees who have received appropriate medical treatment for tuberculosis, or when medically contraindicated.

(b) Results of the Mantoux tuberculin skin tests administered to new employees shall be acted upon as follows:

1. If the first step of the Mantoux tuberculin skin test result is less than 10 millimeters of induration, the second step of the two-step Mantoux test shall be administered one to three weeks later;

2. If the Mantoux test is significant (10 millimeters or more of induration), a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy; and

3. Any employee with positive results shall be referred to the employee's personal physician and if active tuberculosis is suspected or diagnosed shall be excluded from work until the physician provides written approval to return.

(c) The facility shall have written policies and procedures establishing timeframes, requiring annual Mantoux tuberculin skin tests for all employees except those exempted under (a)1 above.

(d) The facility shall assure that all employees have received the Mantoux test upon employment, except those exempted under (a)1 above.

(e) The facility shall retain the results of all tuberculin testing of personnel in each employee's file.

8:43J-15.5 Employee health history and examinations

(a) The facility shall require all new employees to complete a health history and to receive an examination performed by a physician or an advanced practice nurse within two weeks prior to the first day of employment or upon employment.

1. The examination may be deferred for up to 30 days if the nursing director performs a nursing assessment on the new employee upon employment.

(b) The facility shall establish criteria for determining the content and frequency of physical examinations for employees.

(c) The facility shall develop policies that specify the circumstances under which other persons providing direct child-care services shall receive physical examinations and Mantoux testing.

(d) The facility shall develop and implement policies and procedures to ensure that all volunteers and students who have contact with children on

a routine basis provide documentation that they have received, at a minimum, a Mantoux tuberculin skin test and either a physical examination or a certification of health status from a physician.

(e) The facility shall offer yearly influenza immunization to employees at no charge to the employees.

1. Facilities shall obtain signed declination forms from employees who decline the influenza immunization and shall retain the forms in the employees' records.

8:43J-15.6 Regulated medical waste

(a) The facility shall ensure that regulated medical waste is collected, stored, handled and disposed of in accordance with applicable Federal and State laws.

(b) The facility shall comply with the N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Management Act, and all rules promulgated pursuant thereto, including N.J.A.C. 7:26-3A.

8:43J-15.7 Provision of housekeeping, sanitation and safety

(a) The facility shall provide and maintain a sanitary and safe environment for children.

(b) The facility shall be clean, orderly and free of offensive odors.

(c) The facility shall provide housekeeping and pest control services.

(d) The facility shall develop and implement written objectives, policies, a procedure manual, an organizational plan and a quality improvement program for housekeeping, sanitation and safety.

8:43J-15.8 Housekeeping

(a) The facility shall establish and implement a written work plan for housekeeping operations, with categorization of cleaning assignments as daily, weekly, monthly or annually within each area of the facility.

(b) The facility shall develop procedures for the selection and use of housekeeping and cleaning products and equipment.

(c) The facility shall train housekeeping personnel in cleaning procedures, including the use, cleaning and care of equipment.

8:43J-15.9 Pediatric medical day care facility environment

(a) The facility shall meet the following housekeeping, sanitation and safety conditions:

1. The facility and its contents shall be free of dirt, debris and insect and rodent harborages;

2. Nonskid wax shall be used on all waxed floors;

3. All rooms shall be ventilated to help prevent condensation, mold growth and noxious odors;

4. All child areas shall be free of noxious odors;

5. Throw rugs or scatter rugs shall not be used in the facility;

6. All furnishings are clean and in good repair and mechanical equipment is in working order.

i. Equipment shall be kept covered to protect from contamination and accessible for cleaning and inspection; and

ii. Broken or worn items shall be repaired, replaced or removed promptly;

7. All equipment is provided unobstructed space for operation;

8. All equipment and materials necessary for cleaning, disinfecting and sterilizing shall be provided;

9. Thermometers, which are accurate to within three degrees Fahrenheit, shall be maintained in refrigerators, freezers and storerooms used for perishable and other items subject to deterioration;

10. Pesticides shall be applied in accordance with N.J.A.C. 7:30;

11. Articles in storage shall be elevated from the floor and away from walls;

12. All poisonous and toxic materials shall be identified, labeled and stored in a locked cabinet or room that is used for no other purpose;

13. Combustible materials shall not be stored in heater rooms or within 18 feet of any heater located in an open basement;

14. Paints, varnishes, lacquers, thinners and all other flammable materials shall be stored in closed metal cabinets or containers;

15. Unobstructed aisles shall be provided in storage areas;

16. A program shall be maintained to keep rodents, flies, roaches and other vermin out of the facility;

17. Toilet tissue, soap dispenser, paper towels or air dryers and waste receptacles shall be provided in each bathroom at all times;

18. All solid or liquid waste that is not regulated medical waste, garbage and trash shall be collected, stored and disposed of in accordance with applicable rules of the New Jersey Department of Environmental Protection and the Department.

i. Solid waste shall be stored in insect-proof, rodent-proof and fire-proof, non-absorbent, watertight containers with tight-fitting covers and collected from storage areas regularly, so as to prevent nuisances, such as odors; and

ii. Procedures and schedules shall be established and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage and trash, in accordance with N.J.A.C. 8:24;

19. Garbage compactors shall be located on an impervious pad that is graded to a drain that is unobstructed and connected to the sanitary sewage disposal system;

20. Plastic bags shall be used for solid waste removal, which are of sufficient strength to safely contain waste from point of origin to point of disposal and are effectively closed prior to disposal;

21. Draperies, upholstery and other fabrics or decorations shall be fire-resistant and flameproof;

22. Wastebaskets shall be made of noncombustible materials;

23. Latex foam pillows are prohibited;

24. The temperature of the hot water used for bathing and handwashing shall be no less than 60 degrees Fahrenheit and shall not exceed 120 degrees Fahrenheit;

25. Equipment requiring drainage, such as ice machines, shall be drained to a sanitary connection; and

26. The temperature in the facility shall be kept at a minimum of 70 degrees Fahrenheit and a maximum of 85 degrees Fahrenheit when children are in the facility.

SUBCHAPTER 16. TRANSPORTATION SERVICES

8:43J-16.1 Transportation services

(a) The facility shall provide transportation services, either directly or through contractual arrangements, to all children who require transportation between the facility and the child's home.

1. No child's total transportation time between the facility and the child's home shall exceed one hour one way, and shall not exceed two hours a day.

2. The facility shall accommodate the special transportation needs of the child and the medical equipment used by the child.

(b) Vehicles used to transport children shall comply with the mobility assistance vehicle standards at N.J.A.C. 8:40 and 8:43J-16.2.

8:43J-16.2 Transportation staffing levels

(a) The nursing director shall determine staffing levels to be met in a vehicle whenever a child is being transported, based on the particular needs of the child.

1. The facility shall ensure that at least one direct care staff member, in addition to the driver, is on duty in a vehicle whenever a child is being transported.

8:43J-16.3 Security and accountability during transportation

The facility shall establish and implement plans for security and accountability for the child and the child's personal possessions while transportation services are being provided.

SUBCHAPTER 17. QUALITY IMPROVEMENT

8:43J-17.1 Quality improvement program

(a) The facility shall establish and implement a written plan for a quality improvement program for child care, which shall specify a timetable and the person(s) responsible for the quality improvement program and shall provide for ongoing monitoring of staff and child-care services.

(b) The facility shall establish and implement a quality assurance committee whose members shall include:

1. A Board-certified pediatrician familiar with pediatric medical day care facility services and implementation of quality improvement programs;

2. A registered professional nurse with special expertise in the care of medically complex children; and

3. A certified child life specialist or a social worker with expertise in the care of medically complex children and their families.

(c) Quality improvement activities shall include, but not be limited to, the following:

1. Quarterly reviews by the quality improvement committee of the complete records for at least half of the children served by the pediatric medical day care facility at the time of the quality assurance review.

(d) At a minimum, each quarterly quality assurance committee review shall address:

1. The quality of care evidenced by review of a child's record for compliance with the requirements of N.J.A.C. 8:43J-14.3;

2. Parent involvement, which can be shown by involvement in the development of an interdisciplinary plan of care to be rendered in the pediatric medical day care facility, attendance at interdisciplinary staffing conferences and participation in individual and/or group education sessions scheduled by the center, which include clearly written, practical and

appropriately targeted training materials and scheduled individual and/or group education sessions for parent and other family members;

3. Formal discharge transition procedure, including:

i. Documentation that placement in the pediatric medical day care facility is no longer appropriate for the child;

ii. Evidence of pre-discharge conference involving the parent, representatives of the pediatric medical day care facility professional staff and agencies involved in child care after discharge to ensure a smooth transition; and

iii. A written discharge summary signed by the pediatric medical day care facility nursing director within two weeks of the child's discharge;

4. A review of the goals in each child's interdisciplinary plan of care, progress in achieving the goals, identification of unmet goals and correction plans;

5. At least annual review of:

i. Staff qualifications;

ii. Staff credentials;

iii. Staff orientation; and

iv. Staff education;

6. Evaluation of child care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, child care statistics and discharge planning services;

7. Evaluation by children and their families of care and services provided by the facility;

8. Review of medication errors and adverse medication reactions by the consultant pharmacist;

9. Audit of child medical records (including those of both active and discharged children) on an ongoing basis to determine if care provided conforms to criteria established by each child care service for the maintenance of quality of care; and

10. Establishment of objective criteria for evaluation of the child care provided by each service.

(e) The coordinator of the quality improvement committee shall submit the results of the quality improvement committee's review to the licensed operator, administrator, medical director and nursing director within 15 working days of its review.

1. The results shall include, at a minimum, the deficiencies found and recommendations for corrections or improvements.

i. The coordinator of the quality improvement program shall immediately report deficiencies that jeopardize child safety to the license holder.

ii. The administrator shall implement measures to ensure that corrections or improvements are made.

8:43J-17.2 Use of restraints

(a) The facility shall establish and implement policies and procedures that support a restraint-free environment for all children.

(b) A restraint shall be used only on an order from a child's primary health care provider.

(c) A specific procedure shall be established for the use of each type of restraint.

(d) The least restrictive restraint shall be used in compliance with the child's primary health care provider's order.

8:43J-17.3 Staff development

(a) The facility shall provide each new employee with an orientation to acquaint the employee with the philosophy, organization, program, practices and goals of the facility.

(b) The facility shall provide or arrange ongoing staff development and/or continuing education programs appropriate to the category of personnel to be conducted and documented to facilitate quality child-care.

(c) The facility shall provide staff development and/or continuing education programs to:

- 1. Facilitate the ability of the staff to function as a member of an interdisciplinary team, which includes health professionals and the parent;**
- 2. Improve communication skills to facilitate a collaborative relationship between parent and staff;**
- 3. Increase staff's understanding of the effects that childhood illness has on the child's development and the parent and family members;**
- 4. Develop case management skills to assist the family in setting priorities, planning and implementing the child's care at home; and**
- 5. Provide training in the implementation of new technology.**

CHAPTER 82
STATEWIDE RESPITE CARE PROGRAM

SUBCHAPTER 5. SPONSORS AND PROVIDERS

8:82-5.2 Qualifications and requirements for provider agencies

(a)-(f) (No change.)

(g) All adult day health care facilities [utilized] **used** for the Statewide Respite Care Program shall be licensed to provide adult day health services in accordance with N.J.A.C. 8:43F[-2].

(h)-(i) (No change.)